

# Fisher Broyles

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**Practice Areas:** Commercial Litigation; General Civil Litigation; Health and Pharmacy Law; Insurance; Litigation – Appellate; Litigation - Civil Pretrial & Trial Services; Litigation & Risk Management; Mediation; Professional and Management Liability; White Collar Litigation and Investigations

**Bar Admissions:** Florida; Ohio; U.S. Court of Appeals, 11<sup>th</sup> Circuit; U.S. District Court- Middle District, FL, Northern District, FL, Northern District, OH, Southern District, FL, Southern District, OH

**Education:** Case Western Reserve, University School of Law, J.D. 1990; Duquesne University, B.A. 1987

**Experience:** Roetzel & Andress

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Bob Graziano focuses his practice on healthcare and business litigation. He is a trial lawyer with extensive experience in complex matters in federal and state courts. He has tried more than 50 cases to verdict. Mr. Graziano has represented public corporations, private entities, and individuals from a broad range of industries, including healthcare, life sciences, manufacturing, and finance. He has litigated disputes involving the False Claims Act, products liability, antitrust, shareholder disputes, corporate dissolutions, and non-competition agreements. Additionally, because he has extensive knowledge of clinical medicine, Mr. Graziano is highly experienced and skilled in the defense of healthcare providers.

## Representative Matters

- Prosecuted and successfully resolved claims of two African-American student athletes against a private university, after the students were wrongfully expelled based upon allegations of sexual assault. Case involved claims arising from Title IX, due process violations, race discrimination, defamation, and others.
- Prosecuted and successfully resolved wrongful death claim that involved the shooting death of a young father following a hunting incident.

- Defended medical group and its physicians in a Qui Tam/False Claims Act lawsuit. After persuading the Department of Justice not to intervene, he continued to defend the case filed by the co-defendant's former employee. As a result of an aggressive, trial-ready defense, the whistleblower dismissed the claims from the lawsuit with prejudice. No payment was made.
- Defended physician named as a co-defendant in a Qui Tam/False Claim Act suit brought by co-defendant's former employee. The Department of Justice intervened, and, after aggressive motions and discovery, the client participated in a settlement agreement that excluded the client from any financial participation.
- Defended prominent hospital system in connection with non-competition claims involving its state-of-the-art hospital and its joint venture with a group of emergency medicine physicians. This case also included the successful prosecution of several counterclaims for breach of fiduciary duty and fraud.
- Defended prominent hospital system in the negotiation of a multi-million dollar buy-out of several complicated equipment leases, including advice on the merits of any future litigation.
- Defended prominent hospital system in a lawsuit over its restraint/seclusion policies and procedures, including allegations that its failure to train emergency room department staff caused an inappropriate hold, plaintiff's quadriplegia, and significant damages.
- Defended world renowned hospital system in a radiology lawsuit involving the alleged failure to diagnose a retroperitoneal sarcoma.
- Defended obstetrician in a trial before a state board of medicine, in circumstances where the board was seeking to revoke his medical license because of a cerebral palsy birth and another case that involved the death of a mother and her child in an unregulated, Amish birthing center.
- Prosecuted a lawsuit in probate court, arguing that a trustee breached her fiduciary duty.
- Defended a lawsuit in probate court, involving competence issues of a man with metastatic colon cancer.
- Prosecuted FINRA arbitration involving the sale of "naked" puts.
- Defended prominent hospital system on claims filed by adjacent landowner after hospital's construction-expansion project.
- Prosecuted a § 1983 multi-million dollar lawsuit on behalf of a man who suffered catastrophic injuries following a police shooting, focusing on the damages aspects of the case (injuries, life expectancy, life care planning, and special needs trust).
- Prosecuted wrongful death case against county ambulance service, arguing that the driver's reckless misconduct during a claimed "emergency run" killed client's mother.

### Representative Healthcare Litigation Matters

- Defended prominent hospital system in a wrongful death case involving the interpretation of a CT scan of the abdomen and pelvis and alleged miss of a blood clot in an IVC.
- Defended prominent hospital system and its physicians in a pediatric neurology case involving the brain herniation and death of a 7-year-old girl.
- Defended prominent hospital system and its physicians in a case involving the surgical repair of a rectal prolapse and alleged injury to the internal iliac vein.
- Defended prominent hospital system and its employees in a quadriplegic case involving the restraint of a patient with a psychiatric illness in the emergency department.
- Defended a prominent hospital system and its physicians in a complicated case involving the diagnosis of a Peterson hernia in a patient with prior bariatric surgery.
- Defended a prominent hospital system and its obstetrician in a brachial plexus injury case involving a delivery complicated by a shoulder dystocia.
- Defended a prominent hospital system and its physicians/staff in a wrongful death case involving a cardiac catheterization procedure and retroperitoneal hemorrhage.
- Defended a neonatologist in a case involving the resuscitation of brain-damaged infant.
- Defended a prominent hospital system in a wrongful death case involving the alleged delay in returning a surgical patient to the operating room following a sigmoid colectomy.
- Defended a community hospital system in a wrongful death case involving the alleged failure to diagnosis breast cancer.
- Defended a community hospital system in a surgical burn case during a hysterectomy.
- Defended a community hospital system and its staff in a case involving the failure to diagnosis lung cancer.
- Defended prominent hospital system against wrongful death claim that staff failed to timely respond to code blue situation.
- Defended prominent hospital system against wrongful death claim that hospitalist failed to recognize and respond to a patient's sickle cell crisis.
- Obtained dismissal of wrongful death case against surgeon that involved claim of failure to timely intervene in an obstructed bowel situation.
- Obtained dismissal of prominent hospital system in a wrongful death claim involving an alleged failure to recognize and treat esophageal cancer.

- Defended prominent hospital system in wrongful death case involving 39-year-old man after Achilles tendon surgery.
- Defended an interventional cardiologist in a lawsuit involving a cardiac catheterization procedure.
- Defended a prominent hospital system with respect to its policies and procedures regarding the administration of radioactive iodine therapy.
- Received dismissal for a prominent hospital system in an ERCP case, arguing that plaintiffs failed to file the case within the applicable statute of limitations.
- Received dismissal for a prominent hospital system in lawsuit involving the involuntary admission of plaintiff to the system's psychiatric ward.
- Defended a prominent hospital system in a lawsuit involving cryoablation of the prostate and physician credentialing, including allegations of permanent bladder and bowel dysfunction.
- Defended a prominent hospital system in a lawsuit involving antibiotic therapy to the victim of a severe motor vehicle accident.
- Defended the nursing staff of a prominent hospital system on claims of nursing negligence, including the failure to diagnosis a thoracic epidural hematoma and resultant paraplegia.
- Defended a prominent hospital system in a lawsuit involving claims of severe burns from an embolization procedure.
- Defended a prominent hospital system on claims of inadequate pain relief, under circumstances in which the hospital's nurse had diverted Dilaudid from a Pyxis medication station.
- Defended a prominent hospital system in a death case involving post-partum cardiomyopathy.
- Defended a prominent hospital system in a damages lawsuit involving a transfusion reaction.
- Defended a retina surgeon in a lawsuit involving a young boy's loss of vision, allegedly due to the failure to diagnosis a tumor at the optic chiasm.
- Defended an electro-physiologist in a death case, allegedly due to the failure to review a chest x-ray taken prior to a cardiac ablation procedure.
- Defended a pain management specialist in a lawsuit involving a 40-hour priapism, including claims of impotence.
- Defended a psychiatrist in a death case involving the suicide of his patient the day after her discharge from a senior care facility.
- Represented a psychologist in a lawsuit involving an involuntary admission.
- Defended a general surgeon in a death case following a laparoscopic cholecystectomy.

- Defended a physical therapist in a Complex Regional Pain Syndrome lawsuit, where it was alleged that the therapist triggered CRPS when she allegedly fractured the patient's toe during therapy.
- Defended a general surgeon in a death case, where the patient died from an abdominal bleed.
- Defended a general surgeon in a laparoscopic cholecystectomy lawsuit, where it was alleged that he failed to diagnose a bowel injury.
- Defended a group of peri-operative specialists in a death lawsuit, where it was alleged that the physicians missed the signs and symptoms of a myocardial infarction while the patient was in their care.
- Defended a pulmonologist and cardiologist in a death lawsuit, where it was alleged that the physicians failed to properly treat the decedent's pulmonary embolism.
- Defended a spine surgeon in a lawsuit where it was alleged that the surgeon failed to properly treat a post-operative infection.
- Defended a group of anesthesiologists in a death case following an operating room fire.
- Defended a prominent neurological surgeon in a death case, involving the failure to take the patient to surgery for a brain bleed.

### Accomplishments

- Named to The Best Lawyers in America® for Commercial Litigation (2016)
- AV® Preeminent; rating from Martindale-Hubbell Law Directory
- Named to The Best Lawyers in America® for Medical Malpractice Law - Defendants (2013 - 2016)
- Selected as an "Ohio Super Lawyer" by Ohio Super Lawyers magazine (2005-2020)

### Presentations

- "Trends in Healthcare Enforcement and Pharmacy: DOJ/OIG Enforcement, False Claims & Whistleblowers" - Catholic Health Partners Retreat (May 2014)
- "It's Not Too Complicated: Presenting Complex Medical Information to Judges and Juries" - 15th Annual Conference on Emerging Issues in Healthcare Law, ABA Health Law Section (2014)
- "Strategies in False Claims Act (FCA) Cases and Compliance Techniques" - Roetzel Seminar: Medical Malpractice Claims - The Impact of Being Sued, Ohio (2012)