Fisher Broyles

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Practice Areas: Condemnation/Eminent Domain; Financial Services & Lending; General Corporate; Insurance; Litigation – Appellate; Litigation – Civil Pretrial and Trial Services; Litigation & Risk Management; Mediation; Political Law & Litigation; Real Estate; Trusts & Estates
Bar Admissions: Ohio; U.S. Court of Appeals, 6th Circuit; U.S. District Court, Southern District of Ohio; U.S. District Court, Northern District of Ohio; U.S. District Court, Southern District of Indiana
Education: The Ohio State University College of Law; J.D. 2000; Ohio State Law Journal; CALI Award for Excellence; Sewanee: The University of the South, B.A. 1996 (English and Political Science); Order of the Gownsmen; Omicron Delta Kappa
Experience: Roetzel & Andress, L.P.A.

Mr. Kern is a commercial and business litigator who has a special focus on sophisticated business disputes, risk management and liability defense. In addition to contract disputes, he has extensive background litigating business torts such as fraud, negligent misrepresentations, trade secrets, and covenants not to compete. He also has an extensive background with insurance bad faith claims, construction litigation, foreclosure actions, banking and commercial lending, receivership litigation, lender liability, fiduciary litigation, and real estate loan workouts/restructuring. He also practices in the area of real estate litigation, including eminent domain and easement disputes.

Mr. Kern's experience includes first chair trial experience and litigation management, mediations and appellate practice in federal and state courts. He has partnered with a wide range of clients, including major corporations, closely held businesses, private individuals, and financial institutions nationwide.

A Story of Client Success

As lead litigation attorney, Mr. Kern successfully resolved the most complex civil dispute ever to be litigated in Hamilton County (Cincinnati) Ohio. Mr. Kern's client was a large international bank prosecuting a $100 million foreclosure and guarantor action involving Kenwood Towne Place, a high profile multi-use shopping mall, office tower and publicly financed parking garage. Mr. Kern successfully defended the bank from counterclaims brought by more than 100 parties, including guarantors, investors, contractors, subcontractors and real estate developers. These counterclaims involved allegations of lender liability, construction loan disputes, allegations of fraud and negligent misrepresentation, lien avoidance, a battle over attempts to prime the bank's construction mortgage, easement disputes, receivership litigation, life/safety issues and a dispute involving Port Authority-backed bond funding.

Simultaneously, Mr. Kern successfully prosecuted a fraudulent conveyancing action against the guarantors of the Kenwood Towne Place construction loan. He also advised and counseled the bank, and navigated a joint state and federal criminal investigation that resulted in multiple indictments and a lengthy federal trial against one of the guarantors of his client's construction loan.

Mr. Kern was the architect of a litigation strategy that resulted in summary judgment in his client's favor on nearly every claim—and the remaining claims he took to trial where they were successfully resolved. Mr. Kern successfully defended the bank from attempts to stay the foreclosure of its collateral, achieving victories in the trial court, Court of Appeals and Ohio Supreme Court. Immediately following the foreclosure sale, Mr. Kern negotiated and executed the sale and assignment of his client's winning bid, flipping the property to the hands of private equity investors.

Outside General Counsel

As outside general counsel for a number of closely held businesses, Mr. Kern functions as a problem solver. He helps both start-ups and established companies succeed. He frequently counsels clients on risk management and risk avoidance, real estate, contracts, employment matters, product liability and insurance coverage.

A History of Public Service and Recognition

Before entering private practice, Mr. Kern served as an Assistant Attorney General in the Environmental

Enforcement Section of the Ohio Attorney General's Office where he served as first chair trial counsel representing Ohio EPA before state and federal courts, as well as administrative tribunals. Mr. Kern also served as an Associate Solicitor for the State of Ohio's Major Appeals Group, representing the state and its agencies in high profile matters before the Sixth Circuit Court of Appeals and the U.S. Supreme Court.

Mr. Kern was selected as an "Ohio Super Lawyer—Rising Star" by Ohio Super Lawyers Magazine (2006, 2007, 2008, 2009, 2010, 2011 and 2012). He is a member of the Cincinnati Bar Association, and serves on the vestry of Christ Church Glendale (Episcopal).

Press and Media Coverage

- Could a Former Paper Factory Find New Life as a $30 Million Sports Complex?, Cincinnati Business Courier (Oct. 9, 2014).
- Cincinnati Hopes Decrepit Lot Becomes New Sports Complex, ConnectSports.com
- Hamilton, a 19th Century Mill Town, Sees Growth in Green Tech and Advanced Manufacturing, WCPO Cincinnati (Sept 14, 2014)
- Hamilton Joes Looking for a New Home, Local 12 (June 26, 2014)
- Kenwood Towne Place Developer Daniels Takes the Stand, Cincinnati Business Courier (Dec. 17, 2013)
- State Rules in Butler Co. Election Board Flap, Cincinnati Enquirer (Dec. 9, 2013)
- Bank of America settles legal dispute against Kenwood Towne Place Investors, WCPO Cincinnati (July 5, 2013)
- Newly Unsealed Court Documents Detail Fraud at Kenwood Towne Place Project, WCPO Cincinnati (May 24, 2013)
- Former Kenwood Towne Place Developer Appears in Court, Fox19 Digital Media (Jan. 10, 2013)
- Kenwood Managing Director Indicted for Fraud, Conspiracy, Federal Bureau of Investigation, Cincinnati Division (Nov. 16, 2012)
- Prosecutors: Kenwood Towne Place Developer Diverted $2.8M, WLWT.com (Nov. 16, 2012)
- Kenwood Towne Place Developer Indicted, WCPO Cincinnati (Nov. 16, 2012)
- Kenwood Towne Place —U.S. Bank Business Watch (Aug. 5, 2012)
- Kenwood Towne Place is Sold Again, Fox19 Digital Media (July 25, 2012)
- Strategic Investment Fund Acquires Kenwood Towne Place, Phillips Edison & Company (July 24, 2012)

- Bank of America Snags Kenwood Towne Place for $27M, GlobeSt.com News Hub (July 13, 2012)
- Kenwood Towne Place Sold, Bank of America's $27.5M Bid Wins, Cincinnati Enquirer (July 12, 2012)
- Kenwood Towne Place Auctioned Off, 91.7 WVXU (July 12, 2012)
- Not So Simple; "Simply Money" Host Among Those in Heat Over Kenwood Towne Place Debt, But Questions Remain, CityBeat (May 15, 2012).
- Kenwood Towne Place Still on Hold, 1230 The Buzz (July 1, 2010)
- Deadline Extended for Kenwood Towne Place, Fox19 (Dec. 4, 2009)
- Bank Sues Kenwood Towne Place Developers, Cincinnati Enquirer (May 29, 2009)
- Buckeye Egg Operator to Take Over, Toledo Blade, (Dec. 4, 2003)
- Key Dates in Buckeye Egg Farm's Troubled History, Cleveland Plain Dealer (June 2, 2003)
- Passing the Buckeye: CEO to Sell Troubled Egg Farm, Columbus Business First (May 20, 2002)
- State Proposes Revoking Buckeye Egg's Permits, Cincinnati Enquirer (April 23, 2002)
- Buckeye Egg Cries Foul, Toledo Blade (Dec. 17, 2001)
- Buckeye Egg Farm Has Long History of Problems, Farm and Dairy (Oct. 24, 2000)
- Egg Farm Agrees to Court Order, Cincinnati Enquirer (Dec. 22, 1999)
- Egg Producer Sued by Ohio EPA, Cincinnati Enquirer (Dec. 3, 1999)