

# Fisher Broyles

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**Practice Areas:** Commercial Transactions; Energy/Oil & Gas Law; Environmental Health & Safety; Health and Pharmacy Law; Insurance; Litigation – Appellate; Litigation – Civil Pretrial and Trial Services; Litigation & Risk Management; Media & Communications Law

**Bar Admissions:** Ohio; U.S. Court of Appeals, 6<sup>th</sup> Circuit; U.S. District Court, Southern District of Ohio; U.S. District Court, Northern District of Ohio; U.S. District Court, Colorado

**Education:** Capital University Law School, *J.D., Summa Cum Laude*, 2006-Order of the Curia, *Capital University Law Review, Editor-in-Chief* (2005-06); Assoc. Editor (2004-05); Denison University, *B.A., History, 2001*

**Experience:** Roetzel & Andress, LPA

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Mr. Traven is engaged in an active civil and administrative trial practice in both state and federal courts, representing healthcare entities, oil and gas companies, financial institutions and other public and private business entities. He is an ardent litigator, serving as lead counsel in numerous civil jury trials involving medical-malpractice, contract disputes, defamation and related business torts, shareholder disputes (e.g., tortious interference with business relationship, trade secret, and non-compete violations), shareholder and LLC disputes and their fiduciary obligations, real-estate litigation, construction litigation, and creditors rights' issues and related bankruptcy and receivership issues.

Mr. Traven has substantial work experience successfully representing hospitals, physicians and other healthcare providers in litigation matters, particularly those defending medical-malpractice lawsuits in cases involving wrongful and negligent death claims. His experience and knowledge of medical-malpractice defense includes: catastrophic injury, wrongful death, infant death, brain injuries, amputations, spinal cord injuries, and many surgical and nursing issues. He regularly works with top medical experts to understand the unique underlying issues in order to aggressively defend each case. Mr. Traven works with his clients to facilitate early case assessment and pre-suit investigations.

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Mr. Traven also has significant experience in complex business litigation. He has tried dozens of cases in state and federal courts and handled numerous appeals, many resulting in published opinions.

### 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.
- Successfully defended large hospital system during a three-week jury trial involving the death of a 39-year old man six hours after Achilles tendon surgery
- Successfully defended large hospital system during a five-week jury trial involving the alleged paralysis of a patient, which resulted in a significant appellate decision that affirmed the trial court's vacating an improvidently-entered plaintiff's judgment in Dillon v. OhioHealth Corp., 31 N.E.3d 1322, 2015-Ohio-1389
- Successfully defended a group of perioperative specialists in an eight-day medical-malpractice trial, a result affirmed upon appeal in Jenkins v. Smucker, 10th Dist. No. 12AP-433, 2013-Ohio-175
- Represented a large healthcare provider in a lawsuit alleging breach of a non-compete agreement regarding the opening and operation of a newly-constructed emergency department; obtained dismissal of the non-compete claim and a favorable settlement for the client
- Successfully assisted 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
- Successfully defended prominent hospital system on claims filed by adjacent landowner after hospital's construction-expansion project
- Represented oil and gas company regarding Dormant Mineral Act issues including termination of oil and gas lease and involving issues related to severance of mineral estate in trustee's deed; extension of primary lease term; partial assignment of lease pursuant to anti-assignment provision; delay-rental payments during primary term of lease and issues regarding production in paying quantities during second term; and issues regarding timely and effectively pooling leasehold estate

## Fisher Broyles

Page 3 of 5

- Argued before the Ohio Seventh District Court of Appeals in an oil and gas case related to anti-assignment provision
- Successfully defended international manufacturer of aviation and simulator computer systems in a breach of contract cases involving one of its vendors
- Successfully defeated a request for a temporary restraining order related to an alleged trademark infringement, which resulted in a dismissal of the lawsuit shortly thereafter.
- Successfully defended a prominent entrepreneur in a preliminary injunction hearing, defeating an attempt to close his new business venture
- Successfully obtained a plaintiff's jury verdict for a minority shareholder of a limited liability company providing care to developmentally-disabled adults in a case involving breach of fiduciary duty, fraud, and trade secret allegations
- Successfully argued before the Ohio Eighth District Court of Appeals for a trust beneficiary in a case alleging breach of fiduciary duty and negligence against the trustee in Demming v. Smith, 8th Dist. No. 94106, 2010-Ohio-4134
- Represented county sheriff in several administrative and legal forums related to his qualifications to be sheriff and to appear on the ballot for election, ultimately resulting in a successful election-law decision from the Ohio Supreme Court in State ex rel. Balas-Bratton v. Husted, 138 Ohio St.3d 527, 2014-Ohio-1406
- Represented a state-court receiver in the operation and sale of a hotel in the Columbus, Ohio area
- Represented a state-court receiver in the operation and sale of a condominium building and residential properties in Delaware and Union, Ohio counties
- Successfully prevented the appointment of a state-court receiver for a professional employer organization through an appellate decision that reversed the trial court's appointment of the receiver in Ohio Bur. of Workers Comp. v. Am. Professional Emp., Inc., 184 Ohio App.3d 156, 2009-Ohio-2991

## 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.

## Fisher Broyles

Page 4 of 5

- 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.

## Honors & Awards

- Who's Who in Energy – American City Business Journal (2013-2014)
- Selected as an "Ohio Super Lawyers - Rising Star" by Ohio Super Lawyers magazine (2011, 2012, 2013, 2014, 2015, 2016 and 2017)

## Presentations

- “Protecting and Preserving Your Company In A Crisis” – Buckeye STEPS Meeting (June 2013); Guernsey County Energy Coalition (January 2015)
- “Basic Contracts Used in Oil and Gas Management” – Oil & Gas Series, Kent State Stark (February 2013)
- “Issues in Oil & Gas Litigation in Ohio” – CREW Annual Real Estate Forum (2012)

## Professional Affiliations

- Ohio State Bar Association
- Columbus Bar Association
- Ohio Oil and Gas Association
- Rocky Mountain Mineral Law Foundation

## Publications

- “Tempering Lease Disputes: Ensuring Oil and Gas Leases Remain Enforceable” – The New Frontier: Shale Gas Development in Ohio (2012)