

# Fisher Broyles

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**Practice Areas:** Civil Pretrial & Trial Services; Commercial Litigation; Compliance Counseling; Environ, Health & Safety; Health & Pharmacy Law; Insurance; Internet & eCommerce; Litigation & Risk Mgmt; Products Liability Litigation & Counseling; Reg. Law & Gov't Contracts

**Bar Admissions:** California; U.S. District Court, Central District of California; U.S. District Court, Eastern District of California; U.S. District Court, Northern District of California; U.S. District Court, Southern District of California; U.S. Court of Appeals, Eleventh Circuit

**Education:** J.D., University of San Francisco School of Law, *cum laude*, 2007; B.A., University of California, Berkeley, 2001

**Experience:** Steptoe & Johnson LLP; Sedgwick LLP

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David Mesa is an experienced litigator focused on complex civil disputes for clients in the pharmaceutical, medical device, automobile, and consumer product industries. He has won numerous dispositive motions and has managed cases from inception through judgment in product liability cases as well as commercial business disputes for clients ranging in size from regional business entities to Fortune 500 companies. He has served as national counsel, regional and state counsel in complex litigation matters, including multidistrict litigation and consolidated proceedings in state courts. Mr. Mesa effectively counsels clients at every stage of the litigation life cycle, from case management and discovery strategy, dispositive motions and depositions through fact and expert witness preparation, mediation, and preparing for trial. He also advises manufacturer clients in regulatory compliance and communications with federal Consumer Product Safety Commission (CPSC) and state pharmacy boards.

From brick-and-mortar retailers to online merchants, luxury retailers to big-box stores, start-ups to Fortune 500 companies, and travel retailers to hotels and restaurants, Mr. Mesa also represents many of the largest retailers in the United States in a wide range of legal matters, including significant injury and wrongful death lawsuits, commercial litigation, consumer class actions, and enforcement actions brought by private plaintiffs and government attorneys. He advises retailer clients on compliance with a myriad of federal, state, and local laws, regulations, and agency mandates, including COVID-19 orders, weights & measures, Americans with Disabilities Act (website and mobile app accessibility, physical access

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barriers), pricing, gift card laws, single-use plastic bans (bags, straws, utensils, containers), warranty drafting, and packaging laws and requirements.

Mr. Mesa is serving his third year on the Board of Governors for the California Asian Pacific American Bar Association. He served four years on the Board of Governors for the National Asian Pacific American Bar Association (NAPABA) and is a past president of the National Filipino American Lawyers Association.

In 2017, NAPABA named Mr. Mesa one of eighteen "Best Lawyers Under 40" selected across the country. In 2014, the Minority Corporate Counsel Association named him one of twelve "Rising Stars" in the nation.

### Representative Matters

- Represents world's leading power wheelchair manufacturer in product liability lawsuits in California.
- Represents industry leading consumer product manufacturer in regulatory authority interactions, commercial litigation and product liability lawsuits.
- Represents travel service retailer in wrongful death and personal injury lawsuits.
- Represents top outdoor apparel manufacturing company in commercial litigation.
- Represented multiple global medical device manufacturers in licensing matters with California regulatory boards.
- Represented Fortune 1000 medical device manufacturer in diagnostic device cases.
- Represented nation's largest electric utility in cases involving significant injury and consumer class actions.
- Represented Northern California hotels and spas in premises liability cases involving significant injury.
- Represented Fortune 1000 drug manufacturer in testosterone replacement therapy MDL cases in United States District Court, Northern District of Illinois.
- Represented world's largest over-the-counter (OTC) drug manufacturer in various multi-million dollar product-liability lawsuits in various jurisdictions.
- Represented Fortune 500 medical device manufacturer in hip and knee implant cases.
- Represented one of the largest youth organizations in the United States and its affiliates in various injury cases.
- Obtained multiple favorable agency decisions and prevailed on contestation of violations relating to California Pharmacy Board's imposition of wholesaler licensing requirements on global medical device manufacturers doing business in state.
- Obtained court dismissal for electric utility client in consumer class action alleging property damage due to power surges.
- Obtained court dismissal for diagnostic device manufacturer in product liability action by prevailing on motion to dismiss for failure to timely prosecute.
- Obtained judgment in favor of a hip implant manufacturer by prevailing on a motion for judgment on the pleadings.

- Obtained judgment in favor of a generic OTC drug manufacturer by prevailing on motion for summary judgment based on federal preemption and successfully opposing plaintiff's motion for reconsideration based on subsequent US Supreme Court decision.
- Obtained key discovery rulings in favor of a medical device manufacturer, including sanctions and court-ordered plaintiff admissions, which resulted in a dismissal with prejudice.
- After filing motion for summary judgment based on federal preemption, negotiated and secured voluntary dismissal of all product liability causes of action against OTC drug retailer in case where brain-damaged plaintiff sought over \$10 million in compensatory damages.
- Prepared a successful motion for a directed verdict on a punitive damages claim against a manufacturer of electrosurgical devices.
- Participated in a trial team that obtained a defense verdict in a case where the plaintiff sought \$27 million in damages against a manufacturer of electrosurgical devices.
- Prepared winning summary judgment motion on behalf of an automobile manufacturer in an SUV rollover case.
- Participated in a trial team that prevailed on a motion for non-suit following conclusion of the plaintiff's case-in-chief where the plaintiff sought millions of dollars in damages against a motorcycle manufacturer.
- Negotiated voluntary dismissal of seat component parts manufacturer in alleged collapsed seat-back case where the plaintiff driver sought millions of dollars in damages after suffering severe spinal injuries.

### Speaking Engagements

- COVID-19 Customer Facing Reopening Best Practices, In House Counsel Roundtable, National Filipino American Lawyers Association, Presenter (July 2020)
- Firm & In House Panel, Asian American Bar Association Legally Asian Conference, Moderator (February 2016)
- Crash Course in Products Liability Law, Minority Bar Exchange, Presenter (April 2015)
- The Comfort Women Memorial: Debate on Big Law's Representation In and Eventual Withdrawal From a Widely Unpopular Case, CLE Course, Speaker (November 2014)
- Meet the General Counsel Panel, Filipino Bar Association of Northern California, Moderator (February 2014)
- How to Effectively Take and Successfully Defend Depositions: Tips & Tricks From Real Litigators, CLE Course, Speaker (April 2013)
- Reaching Monumental Heights as a Filipino-American Attorney, Filipino Bar Association of Northern California Panel, Moderator (April 2013)
- Big Firm/Law Firm Panel, 4th Annual Legally Asian Conference, Panel Speaker (February 2013)
- Asians in the Library and Elephants in the Closet: Social and Legal Implications of a UCLA Student's Anti-Asian Rant on You Tube, Diversity Series CLE Course, Panelist (May 2011)
- Unique Perspectives on Diversity in the Legal Profession, Filipino Bar Association of Northern California Panel, Speaker (March 2011)

- Diversity: Talking the Talk and Walking the Walk, University of San Francisco School of Law's Third Annual Diversity Reception, Alumni Speaker (February 2011)
- Managing Life Science Risks and Opportunities From Social Media, Berkley Life Science Policy Webinar, Presenter (November 2010)

### Publications

- Retail Industry Best Practices During the COVID-19 Pandemic, Retail Client Alert (April 2020).
- CA Issues New Guidance on First Statewide 'Stay At Home' Order as More States Adopt 'Stay At Home' Orders, Retail Client Alert (March 2020).
- What Retailers Need to Know About California's 'Stay At Home' Order, Retail Client Alert (March 2020).
- Plastic Straw Laws in California and Nevada, National Association of Theatre Owners of California/Nevada Member Alert (December 2019).
- House Passes Bill to Curb 'Drive-By' ADA Lawsuits, Retail Client Alert (February 2018).
- Manufacturers Selling Products in Qualifying Containers Must Comply With California's Revised Plastic Container Regulations, Product Liability Client Alert (November 2013).
- What You Need to Know About the Changes to California's Rigid Plastic Packaging Container Regulations, Retail Industry Alert (December 2012).
- Paper or Plastic? California Leading the Trend on Plastic Bag Bans, Retail Roundtable (December 2012).
- Arbitration Clause Must Be Perfect To Be Enforceable, California Employment Law Letter (November 2010).
- Medical Device Companies' Concerns About Social Media Remain Justified, Sedgwick's Medical Device Law Update (September 2010).
- Getting A Clean Safety Record Into Evidence In California, Law360 (August 2009)

### Amicus Briefs

- Counsel for Amicus Curiae Professor Terry S. Kogan, *Drew Adams v. School Board of St. Johns County*, Florida, U.S. Court of Appeals for the Eleventh Circuit, Case No. 18-13592

### Awards & Recognitions

- National Asian Pacific American Bar Association "Best Lawyers Under 40" Award (2017)
- Super Lawyers, Northern California "Rising Star" (2015-2018)
- Minority Corporate Counsel Association "Rising Star" (2014)
- Sedgwick's Firmwide Inclusion and Diversity Award (2014)
- Minority Bar Coalition Unity Award (2013)
- American Bar Association's Collaborative Bar Leadership Academy, Inaugural Class (2013)

### Leadership in Professional Associations

- California Asian Pacific American Bar Association, Board Member (2017 – Present)
- National Asian Pacific American Bar Association, Board Member (Nov. 2014 – Nov. 2018)
- National Filipino American Lawyers Association, President, President-Elect, Vice President of Programs & Operations, Executive Officer (2013 – 2018), Advisory Board (2018 – Present)  
NFALA Foundation, Board Member (Nov. 2018 – Present)
- Filipino Bar Association of Northern California, Past President / Advisory Board Member (June 2012 – Present)