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State University of New York at
Buffalo, J.D., cum laude, 1992

Dartmouth College, A.B., 1987

SCOTT M. RUSERT – PARTNER

Scott is originally from Buffalo, New York, and moved to Minnesota in 1992 to clerk on the Minnesota Court of Appeals for the Hon. Thomas J. Kalitowski. He joined Flynn, Gaskins & Bennett upon finishing his clerkship in 1993. Scott concentrates his practice on product liability defense, construction law, land-use, condemnation, insurance law and commercial litigation. He successfully tried cases in Minnesota, Texas and Massachusetts; and handled matters as lead counsel in fifteen other states, always with excellent results to his clients, whether by way of judgment, dismissal or reasonable contribution toward settlement.

Beyond his practice, Scott is active in the profession and the community. For the past nine years he has held elected and appointed leadership positions in both the Hennepin County and Minnesota State Bar Associations. He has lectured at and chaired Continuing Legal Education Seminars since 1997 and has taught at Hamline University School of Laws J-Term since 2000.

Representative Experience :

Product liability cases, defending manufacturers in claims for both personal injury and property damage arising from fires and explosions, industrial accidents, and construction defects. Representative cases include:

Bergmann v. Graco Inc., et al. (U.S. Dist. Ct., Arizona, Case No. 04-425 TUC CKJ, 2005) (Plaintiff voluntarily dismissed with prejudice a personal injury, product liability claim arising from injection injury with high-pressure airless paint sprayer)

Gilson v. Graco Inc., et al. (U.S. Dist. Ct., New Hampshire, Case No. 1:03-cv-478, 2005) (Plaintiff voluntarily dismissed with prejudice personal injury, product liability claim arising from injection with high-pressure airless paint sprayer, following deposition of plaintiffs expert and letter advising of plan for summary judgment seeking costs)

Mesa v. J.D. Group, et al. v. Graco Inc., et al. (California Superior Court, Los Angeles County, Case No. SC 068 888, 2003) (Personal injury, severe burn case, arising from explosion of paint fumes on job site. Summary Judgment for Graco, including award of all costs for travel to depositions from out of state, pursuant to C.C.P. §§ 1032, 1033.5(a)(3), and *Thon v. Thompson*, 29 Cal. App. 4th 1546, 35 Cal. Rptr. 2d 346 (1994))

Venello v. Graco Inc., et al. (New Jersey Superior Court, Morris County, Case No. MRS-L-1702-95, 1997) (Plaintiff voluntarily dismissed with prejudice personal injury, product liability claim arising from injection injury with high-pressure airless paint sprayer, during pre-trial conference immediately before first day of scheduled jury trial)

Waynes, Inc. v. Emerson Electric, et al. (Minn. Dist. Ct., Redwood County, 1999) (voluntary dismissal with prejudice of product liability claim against electric garage door motor manufacturer arising from fire that destroyed service station and convenience store)

Jones v. Honeywell Inc., et al (Pennsylvania Court of Common Pleas, Allegheny County, 1997) (summary judgment in favor of gas valve manufacturer in wrongful death case arising from explosion and complete destruction of residence)

Stibbs v. Mapco, Inc., et al. (945 F.Supp. 1226 (S.D. Iowa 1996) (summary judgment in favor of gas valve manufacturer based on exclusion of expert testimony under *Daubert* standard)

Construction defect cases, both residential and commercial, on behalf of builders, subcontractors, and component manufacturers; residential claims typically involving water-intrusion and mold. Representative cases include:

Pamida, Inc. v. Christenson Building Corp. v. R&Q Trucking, et al., (285 F.3d 701, 8th Cir. 2002) (affirming summary judgment in favor of defendant and third-party defendants based on statute of limitations under Minn. Stat. 541.051 on construction defect claim)

McWilliams, Inc. d/b/a Top Value Homes v. Tappe Construction, et al., 694 N.W.2d 558 (Minn. Ct. App. 2005) rev. granted (Minn. June 28, 2005) (successful challenge to claim that statute of repose bars action for contribution and indemnity, even though plaintiffs claim would not be barred by same statute of repose currently on appeal to the Minnesota Supreme Court)

Berke, et al. v. Lewis Homes v. Honeywell Inc., et al. (California Superior Court, Orange County, Case No. 03CC00575, 2005) (on behalf of Honeywell, successfully resolved a portion of a multi-party, multi-million dollar construction defect, water intrusion, mold case arising from alleged construction defects in an entire housing development)

General litigation practice has included cases involving franchise disputes, insurance coverage, premises liability, eminent domain, commercial disputes and general negligence. Representative case include:

Shoreview Associates v. Wells Operating Partnership, et al. (2003 WL 22076610, D. Minn.) (successful opposition to motion to remand on matter removed to federal court using diversity based disregarding citizenship of nominal escrow agent defendant)

Neilson v. State Farm Fire & Casualty Co. (2003 WL 23960050, Minn. Dist. Ct.) (jury verdict in favor of defendant supporting denial of coverage for alleged hail damage to roof, proving marks attributable to manufacturing defects and blemishes in shingles)

Sather v. State Farm Fire & Casualty Co. (2002 WL 37811, Minn. Ct. App.) (affirm summary judgment determination of no insurance coverage for mold claim)

Illinois Farmers Ins. Co. v. London Brick (Minn. Dist. Ct., Ramsey County, 1996) (jury verdict in favor of defendant on claim of negligent construction of a fireplace alleged as cause of fire and complete destruction of residence)

SEMINARS/SPEECHES

Minnesota Institute of Legal Education: Civil Pre-Trial Practice Institute

- 1997 Faculty, Jurisdiction, Venue & Removal
- 1999 Course Co-Chair and Faculty, Pre-Trial Investigation: Procedures and Considerations for Product Inspections In Pre-Suit, Claims Stage or In Discovery Phase
- 2001 Course Co-Chair and Faculty, Personal Jurisdiction, Venue & Removal

Minnesota Institute of Legal Education: Civil Trial Practice Institute

- 1998 Faculty, Seeing is Believing: The Use of Demonstrative Evidence at Trial
- 2000 Course Co-Chair and Faculty, The New Civil JIGs An Overview and Highlights
- 2002 Course Co-Chair and Faculty, Writing for Trial

Minnesota Institute of Legal Education: The Scoop (Seminar for New Lawyers)

- 1997 Course Co-Chair and Moderator
- 1998 Course Co-Chair and Moderator

Hamline University School of Law, Dispute Resolution Institute, J-Term

- 1998–2002, 2004, 2006 Instructor, Deposition Practice (two-day, full credit law school course on practical aspects of deposition practice)
- 2003 Instructor, Settlement Advocacy (two-day, full credit law school course on representation of clients and participation in alternative dispute resolution mediation, arbitration, administrative hearings)

Minnesota Continuing Legal Education

- 2002 Your First Trial, Course Moderator
- 2005 Residential Construction Defects, Faculty, Legal Developments Affecting Residential Construction Defect Claims, 2005–2005.

Hennepin County Bar Association, Nuts & Bolts Seminar for New Lawyers

- 2001 Panel Member, Tips for Becoming a Partner
- 2005 Faculty, Your First Deposition

Flynn, Gaskins & Bennett, L.L.P.

- 1999 Insurance Claims and Litigation Seminar, Faculty, Premises Liability: He didnt seem drunk to me! We just shoveled that walk! Shes never bitten anyone before! An overview of key issues in successfully defending property owners.
- 2004 Product Liability Seminar, Faculty, Minnesotas New Joint & Several Liability Statute, Not What You Had Hoped For.

Professional Recognition :

Five times voted Super Lawyer by Minnesota Law & Politics (2000, 2001, 2002, 2005, 2006)

Twice voted Rising Star by Minnesota Law & Politics (1998, 1999)

Twice nominated for Minneapolis/St. Paul Business Journals Forty Under 40 (2001, 2004)

Memberships :

Minnesota State Bar Association

- New Lawyers Section 1997–1999
- Governance and Finance Committee 1997–2005
- Civil Litigation Section 2000–Present
- Construction Law Section 2002–Present

Hennepin County Bar Association

- New Lawyers Section 1996–1998
 - Section Vice–Chair 1997–1998
 - Monthly Seminar Committee Chair 1996–1997
- Continuing Legal Education Committee Chair 2003–2004

Court Admissions :

Minnesota, 1992

U.S. District Court, District of Minnesota, 1994

U.S. Court of Appeals, Eighth Circuit, 2001

Civic Involvement :

Scott has been President of the School Board for the Annunciation School in South Minneapolis and a member of the Parish Council and Finance Committee for Annunciation Church. He is a volunteer coach in the Washburn Amateur Hockey Association and the Richfield Baseball League. Scott is also active in the Dartmouth Club of the Midwest and an Alumni Interviewer for Dartmouth College. Outside of work, Scott cherishes time spent with his family and enjoys reading, running, golfing, hockey and virtually all athletic activities.