



**Loren H. Brown**

**Partner**

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Loren Brown is co-chair of the firm's Global Litigation Practice, co-chair of the firm's US Litigation Practice, and a member of the firm's Executive Committee.

Loren has an extensive litigation practice with a concentration in multi-district litigation that often involves large-scale mass tort and class action matters, as well as parallel regulatory and government enforcement proceedings.

Loren has served as national coordinating counsel, tried jury cases, argued appeals and successfully resolved many notable multi-district litigation matters throughout the US. Recent examples include multi-district litigation involving the Cox-2 anti-inflammatory medications Celebrex and Bextra, the smoking cessation medication Chantix, the hormone therapies Premarin and Prempro, the diabetes medication Victoza, the testosterone therapy Depo-T, the cholesterol-lowering medication Lipitor, and the blood thinner Eliquis.

Loren's business litigation practice includes a range of commercial tort and contract, trade secret, intellectual property and securities class action matters. Loren also has significant experience in a range of internal investigation, compliance, and regulatory matters, particularly within the life sciences sector.

Loren also regularly counsels clients on a wide-range of regulatory, risk management, due-diligence, product labeling, product recall, public disclosure, policy and crisis-management issues.

Loren also speaks and writes frequently on the subjects of multi-district litigation, expert evidence, mass tort and product liability litigation, risk mitigation and prevention, pharmaceutical and medical device litigation, and civil trial practice.

*Chambers USA* has recognized Loren as a national leader in the product liability and pharmaceutical litigation areas who is "particularly lauded for his deep technical expertise in this field." Sources have called him "an excellent trial lawyer," and clients have said Loren is "agile with the facts and gives great strategic advice" and added that he is "also earning accolades for his soft skills and general litigation expertise." "There is usually a difference between the attorneys who try cases and those who shape the law. There are a few who do both. Loren is one of them," stated another client. The directory added that commentators have described him as "an expert trial lawyer and as strong as they get for overall strategy." Additionally, he has been "identified for his 'deep expertise in the scientific issues on a product liability claim' and considered 'a tremendous resource for the client.'"

**RELATED SERVICES**

- Litigation, Arbitration and Investigations
- Product Liability, Mass Torts and Product Stewardship

**RELATED SECTORS**

- Life Sciences
- Healthcare

*The Legal 500 United States* also has recognized Loren as "outstanding" and a "key selling point" in the firm's mass tort and pharmaceutical litigation practices. The directory has called him a "highly regarded life sciences expert" who is held in the "highest regard" by peers and a seasoned litigator "whose expertise clients value highly." Furthermore, it noted that he has "an excellent scientific mind," "thinks through things from new angles" and is "very good on case strategy."

Loren was named to the *National Law Journal's* prestigious list of Litigation Trailblazers in 2016 and to BTI Consulting Group's exclusive list of *Client Services All-Stars* in 2017. In 2008, he was honored by Pfizer with its first-ever Lawyer of the Year award, in recognition of his litigation and counseling roles for that client. In 2007, *American Lawyer* magazine named Loren to its "Fab Fifty" list of the 50 rising litigators in the US younger than 45. Loren is also regularly named a New York Super Lawyer in the area of civil litigation and is listed in Euromoney's *Guide to the World's Leading Product Liability Lawyers*.

## EXPERIENCE

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### REPRESENTATIVE ENGAGEMENTS

- Lead counsel for a major pharmaceutical company in Daubert proceedings involving claims that popular hormone therapy medications cause breast cancer
- Trial counsel for a major pharmaceutical company in a product liability trial involving a popular hormone therapy medication
- Representation of a major pharmaceutical company in securities class action involving disclosures related to popular anti-inflammatory medications
- Representation of a major pharmaceutical company in shareholder derivative action involving losses associated with alleged off-label promotion of various prescription medications
- Representation of major pharmaceutical company in a consumer class action involving marketing, promotion and sale of 12 prescription medications
- National coordinating counsel, MDL liaison counsel and lead trial counsel for a leading pharmaceutical manufacturer in defense of nationwide litigation involving popular Cox-2 anti-inflammatory medications. Secured a recent Daubert ruling that CNNMoney.com called "one of the most important 'gate-keeping' rulings ever rendered in a mass-tort case"
- National counsel for a leading pharmaceutical manufacturer in defense of claims involving the popular medication Chantix
- Representation of a leading health care manufacturer in defense of multi-district litigation involving contrast agents used for MRI and other imaging procedures
- National counsel for a leading pharmaceutical manufacturer in commercial and tort claims arising out of worldwide clinical research and development program
- National coordinating counsel for the welding wire subsidiary of a major steel manufacturer in defense of nationwide welding fumes mass tort litigation
- Counsel for the global research and development division of a major pharmaceutical manufacturer. Regularly asked to provide advice related to a broad range of risk management, litigation avoidance, product recall, transactional, venture capital, regulatory, public communication and labeling issues
- Lead trial counsel for a leading pharmaceutical manufacturer in defense of commercial tort and contract action arising out of the acquisition of a biotechnology company
- Lead counsel for a leading pharmaceutical manufacturer in connection with the termination of a worldwide clinical development program involving Phase III cardiovascular compound
- Lead counsel for a major pharmaceutical manufacturer in connection with compliance investigations arising out of the manufacturer's clinical research and development program
- Representation of a leading pharmaceutical manufacturer in connection with investigations arising out of the manufacturer's marketing and promotion of various medications
- Representation of a leading pharmaceutical manufacturer in defense of commercial trade secret matter involving the alleged theft of research compounds
- Representation of a leading pharmaceutical manufacturer in product liability claims involving a popular prescription antibiotic medication
- Lead trial and appellate counsel for a major domestic automotive manufacturer in a wide range of product liability matters.

Includes leading New York federal and state court decisions excluding expert testimony under Daubert and related state common law principles

- Lead trial and appellate counsel for a major Japanese automotive manufacturer in a range of product liability matters, including regional counsel for SUV rollover, post-collision fire and airbag design defect claims
- Lead trial and appellate counsel for the world's largest earthmoving equipment manufacturer involving a range of product liability matters. Includes first-chair jury trial experience as an associate
- Representation of a major pharmaceutical manufacturer in defense of mass tort claims involving popular prescription diet drug combination
- Lead trial counsel for a major bicycle manufacturer in defense of tortious interference and trademark infringement claims related to various corporate sponsorship and license agreements
- Lead trial counsel for a leading bicycle manufacturer in defense of product liability matters involving line of off-road and performance road bikes

## REPRESENTATIVE DECISIONS

- *In re Lipitor (Atorvastatin Calcium) Mktg., Sales Practices & Prod. Liab. Litig.*, No. MDL214MN02502RMG, 2016 WL 1251828, at \*19 (D.S.C. Mar. 30, 2016) (excluding plaintiffs' general causation experts' testimony that Lipitor can cause diabetes at doses below 80 mg)
- *In re Lipitor (Atorvastatin Calcium) Mktg., Sales Practices & Prod. Liab. Litig.*, 150 F. Supp. 3d 644 (D.S.C. 2015) (excluding plaintiff's specific causation expert)
- *In re Incretin-Based Therapies Prod. Liab. Litig.*, 142 F. Supp. 3d 1108, 1132 (S.D. Cal. 2015) (granting summary judgment in all MDL cases based on conflict preemption in litigation involving claims that diabetes medications cause pancreatic cancer)
- *In re Byetta Cases*, 2015 WL 7184655 (Cal. Super. Nov. 13, 2015) (granting summary judgment in all JCCP cases based on conflict preemption in litigation involving claims that diabetes medications cause pancreatic cancer)
- *In re Chantix (Varenicline) Products Liability Litigation*, 881 F.Supp. 2d 1333, 1343 (N.D. Ala. 2012) (holding that "the July 1, 2009, black box warning is adequate as a matter of law to warn of the risks of neuropsychiatric complications in patients taking Chantix").
- *Zaremba v. General Motors Corp.*, 360 F. 3d 355 (2d. Cir 2004) (affirming summary judgment and excluding expert testimony under *Daubert* in catastrophic, multi-plaintiff rollover crash)
- *Jazini v. Nissan Motor Co.*, 148 F. 3d 181 (2d. Cir 1998) (affirming dismissal of automotive product liability matter against foreign multinational based on lack of personal jurisdiction)
- *In re Prempro Prods. Liab. Litig.*, Nos. 4:03CV1507-WRW, 6:05CV06074, 2011 WL 178574 (W.D. Ark. Jan. 19, 2011) (excluding expert testimony that short-term use of popular combination hormone therapy is capable of causing breast cancer)
- *In re Prempro Prods. Liab. Litig.*, No. 4:03-CV-1507-WRW, 2010 WL 3447293 (E.D. Ark. Aug. 30, 2010) (excluding expert testimony that popular estrogen-based hormone therapy is capable of causing breast cancer)
- *Zafarana v. Pfizer Inc.*, 724 F. Supp. 2d 545 (E.D. Pa. 2010) (granting motion to dismiss in consumer class action to recover for actions allegedly taken by major pharmaceutical company in marketing and promotion of twelve prescription medications)
- *In re: Bextra and Celebrex Marketing Sales Practices and Prod. Liab. Litig.*, MDL No. 1699, Pretrial Order No. 29: Provision of Case-Specific Expert Reports Regarding Specific Causation (N.D. Cal. Aug. 1, 2008) (Lone Pine order requiring threshold disclosure of expert reports on issue of specific causation)
- *In re: Bextra and Celebrex Marketing Sales Practices and Prod. Liab. Litig.*, No. M:05-CV-01699-CRB, 2007 WL 4170276 (N.D. Cal. Nov. 19, 2007) (excluding as unreliable any expert opinion that popular anti-inflammatory causes heart attacks and strokes at most commonly used dose)
- *Figuroa v. Gallagher, et. al*, 20 A.D. 3d 385, 798 N.Y.S. 2d 143 (2d Dept 2005) (reversing trial court and granting summary judgment in favor of General Motors based on inadequacy of plaintiffs' expert testimony)
- *Lessard v. Caterpillar, Inc.*, 291 A.D. 2d 825, 737 N.Y.S. 2d 191 (4th Dept 2002) (affirming directed verdict in favor of defendant manufacturer based on inadequacy of plaintiffs' expert's qualifications)
- *Goldman v. Gateway Toyota, et. al*, 283 A.D. 2d 457, 724 N.Y.S. 2d 630 (2d Dept. 2001) (affirming summary judgment in favor of defendant manufacturer based on plaintiffs' spoliation of evidence)
- *Bobrowsky v. Toyota Motor Sales, U.S.A., Inc.*, 261 A.D. 2d 349, 689 N.Y.S. 2d 183 (2d Dept. 1999) (affirming judgment

following defense verdict and finding plaintiff's psychiatric records properly admitted for impeachment purposes)

- *In re: Bextra and Celebrex Prod. Liab. Litig.*, No. 762000/2006, (N.Y. Sup. Ct., N.Y. Cty. Jan. 7, 2008) (excluding as unreliable any expert opinion that popular anti-inflammatory causes heart attacks and strokes at most commonly used dose)

## CREDENTIALS

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### Admissions

- New York

### Education

- J.D., Hofstra University 1992
- B.S., Finance, University of Maryland 1988

### Courts

- United States Court of Appeals for the Eighth Circuit
- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Second Circuit
- United States District Court for the District of Connecticut
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the Southern District of New York
- United States District Court for the Western District of New York

### Memberships

- American Bar Association
- Defense Research Institute
- Product Liability Advisory Council
- New York City Bar Association
- New York State Bar Association

## INSIGHTS

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Loren regularly speaks and writes on the subjects of evidence, science in the courtroom, products liability and mass tort litigation, and civil trial practice.

### Publications

**In *Albrecht*, US Supreme Court narrows implied preemption of failure-to-warn claims, finds preemption is legal issue for judge, not jury**

21 MAY 2019

The *Albrecht* decision clarifies and substantially narrows the scope of preemption under the *Wyeth v. Levine* “clear evidence” standard.

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## Supreme Court hears oral argument in *Fosamax*: key takeaways

8 JAN 2019

None of the justices indicated a desire to upset the *Wyeth v. Levine* framework.

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- Co-Author, *Random Selection Is Best For MDL Bellwether Trials*, Law360 (October 20, 2014)
- Co-Author, *Bellwether trial selection in multi-district litigation: empirical evidence in favor of random selection*, Akron Law Review (Fall 2014)
- Author, *Staying Ahead of the Curve in Evidentiary Law in America*, Inside the Minds: New Developments in Evidentiary Law in New York (Aspatore 2013)
- Co-Author, *The Myth of Juror Impartiality: Practical Strategies for Minimizing Juror Bias*, Trial by Jury 2012, Litigation and Administrative Practice, Course Handbook Series No. H-898 (Practicing Law Institute 2012)
- Author, *Staying on Top of Recent Developments in New York Evidentiary Law*, Inside the Minds: New Developments in Evidentiary Law in New York (Aspatore 2011)
- Co-Author, *Sacking the Monday Morning Quarterback: Tackling Hindsight Bias in Failure-to-Warn Cases*, DRI: For the Defense (October, 2010) Received the G. Duffield Smith Outstanding Publication Award, which honors the Defense Research Institute's most outstanding defense-related article in 2010
- Author, *Emerging Issues in Pharmaceutical and Biotech Litigation Arising from Clinical Trials*, Product Liability Litigation: Current Law, Strategies and Best Practices 8-1 (2009)
- Author, *Expert Witnesses: Products Liability Cases* (West 2009)
- Author, New York State Trial Lawyer's Institute: Federal Practice For State Practitioners, *Evidentiary Issues in Federal Practice* (April 6, 2005)
- Author, *Emerging Trends and Perspectives in Rollover Litigation*, ABA The Brief: Tort Trial and Insurance Practice Section, Fall 2004 Vol. 34, No. 1
- Author, *Motions In Limine in New York Products Liability Litigation*, Products Liability In New York: Strategy and Practice, 2002 Supplement, Chapter 15 (Neil A. Goldberg ed., 2002)
- Author, *Liability Based on the Alleged 'Over-promotion' of Prescription Drugs and Medical Devices - Is the Learned Intermediary Defense Still Alive?*, DRI: Rx for the Defense, Fall 2001
- Author, *Motions In Limine in New York Products Liability Litigation*, Products Liability In New York: Strategy and Practice, Chapter 15 (Neil A. Goldberg ed., 1997)

## Events

- Speaker, Sandpiper Partners LLC: Reengineering the Litigation Lifecycle II Roundtable (New York, September 22, 2016)
- Speaker, PLAC 2014 Fall Conference, *Junk Literature and Peer Review* (Chicago, October 16, 2014)
- Speaker, Zeughauser Group: Law Firm Chair Roundtable, *Managing Alternative Fee Arrangements* (May 6-7, 2014)
- Speaker, Institute of Medicine: Public Session, *Committee on Responsible Sharing of Clinical Trial Data*, including a discussion on product liability implications resulting from the sharing of clinical trial data (April 9, 2014)
- Speaker, Sandpiper Partners LLC: The Third Annual Pricing and Profitability Conference, featuring *Anatomy of a Fixed Fee Negotiation* (Chicago, October 25, 2013)
- Guest Lecturer, Law School of Tanzania, *Drafting and Negotiating Dispute Resolution Clauses*, New Perimeter Pro Bono Teaching Project in Dar es Salaam, Tanzania in collaboration with General Electric's Legal Department (June 3-7, 2013)
- Speaker, Sandpiper Partners LLC: The Third Annual Pricing and Profitability Conference, featuring *Anatomy of a Fixed Fee Negotiation* (Washington DC, May 22, 2013)
- Speaker, PLAC 2013 Spring Conference, *Pharmaceutical Litigation in an Evolving Regulatory Environment* (April 25, 2013)
- Speaker, Sandpiper Partners LLC: The Second Annual Pricing and Profitability Conference, *Anatomy of a Fixed Fee Negotiation*

(November 30, 2012)

- Guest Lecturer, Harvard Law School: The Strategic Management of a Mass Tort: Legal and Business Challenges Arising from the COX-2 Inhibitor Litigations with Amy W. Schulman, Executive Vice President & General Counsel, Pfizer Inc., Class 7: *The Importance of Scientific Data in the Company's Strategy: The Admissibility of Expert Causation Testimony under Daubert* (October 25, 2012)
- Speaker, The Marbury Institute: *Proliferation, Aggregation & Containment: The Nuts and Bolts of MDL Practice & Procedure* (August 13, 2012)
- Speaker, ACI Conference: Clinical Trials, *Identifying Potential High-Risk Areas to Minimize Future Products Liability Stemming from Clinical Trials* (July 17, 2012)
- Speaker, Sandpiper Partners LLC: *Pricing and Profitability & the Opportunistic Firm* (July 11, 2012)
- Speaker, ACI Conference: 16th Annual Drug and Medical Device Litigation, *Sorting Through the Science and Explaining Complex Medical Data* (December 7, 2011)
- Speaker, Sandpiper Partners LLC: Fifth Annual Leading Law Firms Conference, *Resetting the Corporate Client Agenda* (October 28, 2011)
- Speaker, ACI Conference: Clinical Trials, *Mitigating Litigation Risks that Stem from Clinical Research: Challenges Raised by the Post-Hoc Analysis of Data and Hypothesis Generation* (January 25, 2011)
- Co-Chair and Speaker, ACI Conference: *Products Liability Boot Camp for Life Sciences, Reverse Engineering a Product Liability Case as a Tool to Mitigate Future Exposures* (July 22, 2010)
- Speaker, IADC Annual Meeting 2010: *Defending US Companies in Global Litigation and Investigations* (July 14, 2010)
- Speaker, Sandpiper Partners LLC: Game Changer: Project Management for Law Firms Conference, *Designing New Ways to Deliver Client Service* (June 8, 2010)
- Speaker, ACI Conference: Managing Legal Risks and Conducting Clinical Trials, *Mitigating Liability Risk Related to Design, Execution and Disclosure of Clinical Research* (February 24, 2010)
- Speaker, ACI Conference: Off-Label Communications, *Assessing and Managing Risks in Product Liability Cases Based on Off-Label Uses* (July 16, 2009)
- Speaker, ACI Conference: Drug and Medical Device on Trial, *Direct Examination of the Defense Medical Expert* (June 24-25, 2009)
- Panelist, 2009 Association of General Counsel Meeting, *Law Department Management and Controlling Outside Counsel Fees* (May 8-9, 2009)
- Speaker, Thompson Reuters: West LegalEdcenter CLE Webcast, *Wyeth v. Levine: Preemption and Future Litigation* (March 27, 2009)
- Speaker, ACI Clinical Trials Conference: *Managing Legal Risk in Structuring & Conducting Clinical Trials, "Post-Marketing Studies: Identifying and Minimizing the Litigation Risks,"* (February 27, 2008)
- Speaker, NYSBA CLE Seminar: Practical Skills - Basics of Civil Practice - The Trial, *Experts* (November 27, 2007)
- Speaker, ACI Conference, *Identifying and Minimizing Litigation Risks of Clinical Trial Data and Post-Market Adverse Event Reports*, (July 2007)
- Speaker and Author, New York City Bar Association Center for CLE: Navigating the Labyrinth of Complex (Including Multidistrict) Product Liability Litigation, *Expert Witnesses in Complex Litigation*, (March 22, 2005).
- Speaker, DRI Drug and Medical Device Seminar, *Prescribing Information: The Beauty and Beast of Labeling*, (May 12-13, 2005).
- Speaker, ABA 2004 Emerging Issues in Motor Vehicle Product Liability Litigation, *Emerging Trends in Litigating The Rollover Case*, (March 18, 2004).
- Speaker, NYSBA CLE Seminar: How To Try Damages, *Winning Strategies for the Defendant*, (Dec. 6, 2002).
- Speaker, NYSBA CLE Seminar: Practical Skills - Basics of Civil Practice - The Trial, *The Expert Witness*, (May 15-16, 2002).
- Speaker, NYSBA CLE Seminar: Practical Skills - How to Commence a Civil Lawsuit, *Pleadings and Motions Directed to Their Faults*, (Nov. 14-15, 2001).
- Speaker and Author, DRI Defense Practice Products Liability Seminar, *Demonstrative Testing: Safeguards Against Disclosure of Adverse Results*, (Feb. 4-6, 1998).

## NEWS

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### **DLA Piper lawyers and practices were highlighted in the 2017 directory of Who's Who Legal**

22 DEC 2017

DLA Piper is pleased to announce *Who's Who Legal* designated us as both the Real Estate Firm of the Year and the Franchise Firm of the Year for 2017.

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