

## Kirk G. Warner

ATTORNEY

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### OVERVIEW

Kirk Warner is a lead trial lawyer focusing much of his practice on complex and challenging product liability and commercial bet-the-company litigation and contested topical areas such as **motor vehicle, pharmaceuticals, biosciences, medical devices asbestos, industrial, tools and construction products defense**. Kirk leads the firm's Products Liability, Mass Tort and Catastrophic Loss, Asbestos and Toxic Torts, and Pharmaceutical and Medical Device Litigation practice groups and is a senior litigator in the firm's Commercial Litigation, Complex Contract Disputes and Construction Litigation teams with trial experience spanning across many litigation areas. He also has extensive experience representing a variety of government contractors with issues involving overseas war operations and advising clients involved in government interagency and contingency operations contractor issues.

Kirk has significant experience in litigating, managing, and counseling clients on an array of litigation, including serving as lead counsel nationally, regionally and statewide to multiple major automotive and consumer products manufacturers. He has often represented product manufacturers involved in catastrophic explosion and fire lawsuits and he has investigated, litigated and tried cases throughout the United States in all levels of trial and appellate courts. Kirk has represented all major automotive manufacturers as well as many major pharmaceutical, medical and insurance companies, including many Fortune 500 companies in complex litigation matters in over twenty-five states and Guam. He also has trial experience in most general and commercial litigation categories including environmental coverage, contract, catastrophic loss and injury, wrongful death, commercial, construction, insurance and arson cases.

At the start of Kirk's career, he was an associate with a national law firm in Cincinnati, and served as a member of the national defense team for the Rely Tampon-Toxic Shock Syndrome litigation. He was also involved in national asbestos coverage and other general and commercial litigation matters. While at that firm, Kirk also served as an Assistant Special Prosecutor for the State of Ohio in the investigation of the Ohio Savings & Loan crisis and the resulting prosecutions. He was a partner for over a decade at a Raleigh law firm where he continued his commercial, fire and catastrophic loss, construction, and product liability defense representation and trial practice.

Kirk is a retired Army Colonel, Iraqi War Commander, and Senior Army Judge Advocate who was legal counsel to three Chairmen of the Joint Chiefs of Staff at the Pentagon and major Commands. He has led major investigations and tiger teams for the Department of Defense and large corporations. He was featured on CNN's *Lou Dobbs' Tonight* "Heroes" series and has published two award-winning books: *Zone of Action: A JAG's Journey Inside Operations Cobra II and Iraqi Freedom* and *A Hoot in Hell's Island: The Heroic Story of World War II Dive Bomber Lt. Cmdr. Robert D. "Hoot" Gibson*.

## Military Service

Colonel (Retired), United States Army, Judge Advocate General Corps

COL Warner retired from the United States Army in 2013 after 33 years of military service. He served as the Deputy Legal Counsel to the Chairman of the Joint Chiefs of Staff at the Pentagon for three JCS Chairmen. In that role, he served on many Government Interagency Panels and Working Groups for Governmental Leaders and Deputies and as both an Advisor and an Investigating Officer for major National Security and Defense Department Inquiries, Events and Incidents. He also served as the first Commander of the 134th Legal Operations Detachment (LOD), Fort Bragg, North Carolina and as the Staff Judge Advocate of the Army's Training Command. Deployed in support of Operation Iraqi Freedom (OIF), he became the Deputy Staff Judge Advocate, Combined Joint Task Force-7 (Coalition Provisional Authority), Baghdad, Iraq immediately following the fall of Baghdad until September 2003 and was the Senior Judge Advocate in the Command Operations Center, Coalition Forces Land Component Command (U.S. Third Army), Camp Doha, Kuwait, during the march to Baghdad. He commanded the 12th JAG Detachment in OIF. COL Warner also served as a Team Chief, 12<sup>th</sup> Legal Support Organization and the Command Judge Advocate for the 171<sup>st</sup> Corps Support Group. He previously served as a Medical Service Corps Company Commander, Executive Officer and Department Chief for several hospital units. COL Warner is a graduate of the U.S. Army Command and General Staff College, the Joint Forces Staff College, and the U.S. Army War College. He has chaired Advisory Boards, Tiger Teams and Working Groups as a Senior Army and Joint Service JAG Leader.

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## EXPERIENCE

- Defended national residential property management company in putative class action claiming collection of improper rental eviction fees.
- Defended national home and building supply company in product liability litigation claiming sino-nasal cancer from exposure to wood dust.
- Defended national industrial and consumer products company in products liability litigation claiming leukemia from benzene exposure.
- Defended recycling company in multiple catastrophic personal injury, property damage and business interruption damage federal lawsuits from explosion and fire at a trucking terminal in Charlotte.
- Defended national home and building supply company in catastrophic personal injury products liability litigation claiming defective corded window blinds and resulting child strangulation/asphyxiation.
- Defense of medical device company in a bet-the-company paraplegic injury lawsuit. The lawsuit alleged the paraplegia was the result of lower lumbar surgery involving lateral and contra-lateral access using a minimally invasive decompression medical device and micro-blade shaver system. The lawsuit was successfully resolved prior to trial.
- Defense of major automotive manufacturer in asbestos mesothelioma wrongful death lawsuit brought by a national plaintiffs' asbestos firm in South Carolina alleging decedent's exposure to automotive brake and gasket dust. Defense verdict following four week trial.
- Defense of gas regulator manufacturer in aggregated lawsuits involving four deaths and over forty workers injured in a catastrophic propane gas fire and explosion at the ConAgra Slim-Jim Plant in Garner,

North Carolina.

- Defense of major pharmaceutical company in multiple pain pump lawsuits. The lawsuits claimed rotator cuff and shoulder joint deterioration from analgesic delivered in pain management infusion pumps following shoulder repair surgery. The cases were resolved through dismissal or transfer to MDL and ultimate settlement.
- Defense of major security contractor for deaths of four independent contractors ambushed and killed on convoy in Fallujah, Iraq with national scope and implications and Congressional interest. This complex case involved federal and state lawsuits, Department of Labor and International Centre for Dispute Resolution proceedings, Congressional Sub-Committee hearings and multiple federal appeals in the United States Fourth Circuit and the Supreme Court.
- Defense of surgical device manufacturer in a wrongful death action filed in the Middle District of North Carolina alleging that a tumor ablation device malfunctioned and caused the destruction of healthy tissue. Implementation of aggressive discovery and defense strategy resulted in dismissal of all claims that had been asserted against our client.
- Lead counsel for major Public Utility Company in investigation and defense of a claim that involved damage to an archeological site during transmission ROW clearance on an Army installation. Led company investigation and defense of the government's investigation and subsequent claims against company which resulted in favorable settlement and resolution of all claims and prosecution threats with a mitigation of other archeological sites along the ROW and a significant recovery in a subrogation claim against a third-party vendor.
- Defense of major automotive manufacturer in triple fatality accident involving allegations of defective stability and lack of electronic stability control in a sports utility vehicle and defective seat belt restraints in a pick-up truck and wrongful death damages claims for the two occupants of the truck. This unique accident involved the high speed rollover of the SUV onto the oncoming pick-up truck resulting in the deaths of all three occupants. Defense verdict obtained after a five week trial.
- Defense of major pharmaceutical company in numerous consolidated personal injury lawsuits alleging that Thimerosal, the preservative used in many vaccines, caused autism in children. Following expert discovery and an evidentiary hearing, the court granted defendant's motion for summary judgment.
- Defense of major automotive manufacturer in child paraplegic injury products case alleging defective design of child restraint systems and crashworthiness of mid-sized sedan. Six week trial resulted in a defense verdict.
- Defense of major power tool manufacturer in federal products case resulting in loss of plaintiff's eye due to claims of nail gun defective design. Defense verdict following two week trial.
- Defense of major latex glove manufacturer in a dozen latex allergy lawsuits in North Carolina as part of the national MDL. Cases were resolved through dispositive motions and favorable settlements.
- Defense of major tire manufacturer in motor vehicle rollover accident resulting in brain-injured child. Three week trial and two week retrial resulted in favorable resolution prior to verdict.
- Defense of major tool manufacturer in amputation case alleging defective circular saw. Defense verdict after two weeks of trial.
- Defense of multi-national consumer goods company in Rely tampon - toxic shock syndrome litigation nationwide. Member of the national lead counsel defense team. Specifically responsible for over 200 cases tried, dismissed or resolved in over twenty (20) states in federal and state trial and appellate

systems.

- Defense of largest electric utility in the United States involving death and catastrophic paraplegia injury claims brought by two fishermen in a fishing tournament who collided into a power tower in Lake Gaston. Favorable defense verdict following two week federal trial in admiralty.
- Defense of major pharmaceutical manufacturer involving allegations that the menopause treatment drug Prempro caused cancer. The cases were ultimately transferred to a MDL in Arkansas where the claims were settled by the co-defendant/primary target. *In re Prempro Products*, 03-cv-015070-WRW, U.S. District Court, Eastern District of Arkansas (Little Rock).
- Prosecution of thorny contract/business dispute between buyer/seller of textile plant in Tarboro, NC with multiple disputes on continued operations. Two week federal trial settled favorably prior to verdict.
- Defense of manufacturer of industrial chicken fryer from catastrophic fire loss in chicken processing plant in Hamlet, NC resulting in twenty-four deaths and aggressive litigation.
- National Counsel defending tire inflator manufacturer in multiple wrongful death and catastrophic injury cases across the country achieving resolution through settlement or trial of significant, tough cases and claims.
- Defense of engineering and manufacturing company from multiple death lawsuits from catastrophic rupture of hydrochloric acid pulp silo at a major papermill in North Carolina.
- Defense of major automotive manufacturer in lawsuit involving deaths of a family of four claiming defective design and manufacture of an engine serpentine belt and power brake system in an ambulance which ran intersection. Defense verdict after three weeks of trial.
- Defense of major automotive manufacturer in a multiple fatality and partial paraplegic injury rollover accident with allegations of vehicle design defect claims of failure to have electronic stability control.
- Defense of major trucking firm in multiple-death trucking accident lawsuit resulting in defense verdict.
- Prosecution to enforce payment for delivery of military communications systems (PRC 77s) pursuant to US Government contract to Honduras military and funds absconded by intermediary sales company. Three week trial in Dade County, Florida resulted in verdict for represented electronics company.

## CREDENTIALS

### Recognition

- Fellow, American Bar Foundation
- *North Carolina Lawyers Weekly*, Class of 2023 Icons & Phenoms
- *Benchmark Litigation*, North Carolina Litigation Star (2015-2023)
- Best Lawyers®
  - Bet-the-Company Litigation (2006-2024)
  - Commercial Litigation (2006-2024)



- Product Liability Litigation - Defendants (2006-2024)
- Best Lawyers®, "Lawyer of the Year," Raleigh, Products Liability Litigation - Defendants (2020)
- *Business North Carolina Legal Elite*
- Recipient, Kirk Warner Award for Distinguished Service to the Military and Veterans, NCBA Military and Veterans Law Section (2018)
- NCHSAA Golden Whistle Merit Awards for outstanding officiating service (2018)
- *Lou Dobbs Tonight*, "Heroes" series, CNN (February 4, 2004)
- News & Observer "Tar Heel of the Week," *Fighting for Veterans* (recognizing a notable North Carolinian who is having an impact on the Triangle Community), June 7, 2015
- North Carolina *Super Lawyers* (2006-2023)
- Martindale-Hubbell AV Preeminent Rated

## US military Decorations and Badges

- Legion of Merit
- Bronze Star Medal
- Defense Meritorious Service Medal
- Meritorious Service Medal (with 1 Oak Leaf Cluster)
- Army Commendation Medal (with 3 Oak Leaf Clusters)
- Army Achievement Medal (with 1 Oak Leaf Cluster)
- Iraqi Freedom Medal (with 2 campaign stars)
- Global War On Terrorism Expeditionary Medal
- Global War On Terrorism Service Medal
- Joint Meritorious Unit Award (with 3 Oak Leaf Clusters)
- Air Assault Badge
- Joint Chiefs of Staff Identification Badge

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## Education

- North Carolina State University, M.B.A., Biosciences, 2015
- U.S. Army War College, M.S.S., Strategic Studies, 2007
- North Carolina State University, M.A., History, 1999
- Duke University and University of Toledo, J.D., 1983
- The Ohio State University, B.S., Zoology, 1980



## Bar & Court Admissions

- North Carolina
  - Ohio
  - Supreme Court of the United States
  - U.S. Court of Appeals for the Armed Forces
  - U.S. Court of Appeals for the Eighth Circuit
  - U.S. Court of Appeals for the Eleventh Circuit
  - U.S. Court of Appeals for the Fourth Circuit
  - U.S. Court of Appeals for the Sixth Circuit
  - U.S. District Court for the District of North Carolina
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