

Miller | Schirger LLC

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Tom Wagstaff, Jr.

Tom Wagstaff, Jr. has deep experience in the areas of nursing home liability, complex business and commercial disputes, products liability, wrongful death, class actions, and environmental matters. He has litigated cases in federal and state courts nationwide, including Missouri, Kansas, South Carolina, North Carolina, Illinois, Ohio, Texas, Arkansas, and Arizona.

Tom's skill and passion have earned him recognition on several occasions as one of Kansas City's outstanding trial lawyers. Tom's peers have routinely selected him for inclusion in the *Kansas City Business Journal's* "Best of the Bar," and he has been named a "Super Lawyer" by *Kansas & Missouri Super Lawyers* every year since 2008. In 2007, Tom also received the Thomas J. Conway award, which is presented annually by the Kansas City Metropolitan Bar Association to a trial lawyer who "represents his/her clients with zeal." In addition, in 2011, Tom was named one of *Ingram's Magazine's* 40 Under Forty.

Tom's contributions to the legal community include serving as the past chair of the Medical-Legal/Nursing Home Litigation committee for the Kansas City Metropolitan Bar Association, and serving on occasion as a pro tem municipal judge to the City of Mission Hills, Kansas. Tom has spoken at legal, medical, and nursing home seminars throughout Missouri on trial tactics and strategy.

Tom also serves on the boards of directors of various civic organizations, including Saint Luke's Hospital of Kansas City, where he serves as board vice president, and the Down Syndrome Guild of Greater Kansas City, where he recently concluded his second term as board president. Tom is also a past board member of St. Luke's Cardiovascular Consultants and First Downs For Down Syndrome.

When not serving his clients and the community, Tom likes to spend time with his wife, Carrie, and their three children.

AREAS OF PRACTICE

- Personal Injury and Wrongful Death Litigation
- Nursing Home Litigation
- Products Liability Litigation
- Professional Malpractice Litigation
- Mass Tort Litigation
- Business and Commercial Litigation
- Wills, Trusts and Estate Litigation

- Insurance Litigation
- Intellectual Property Litigation
- Employment Law and Litigation
- Class-Action Lawsuits
- Whistleblower Litigation

BAR ADMISSIONS

- Arkansas
- Kansas
- Missouri
- U.S. District Court, Eastern District of Arkansas
- U.S. District Court, Western District of Arkansas
- U.S. District Court, District of Kansas
- U.S. District Court, Western District of Missouri

EDUCATION

- University of Kansas School of Law
 - Juris Doctor - 1998
- DePauw University
 - Bachelor of Arts - 1995

HONORS & AWARDS

- 40 under Forty, Ingram's Magazine, 2011
- Best of the Bar, Kansas City Business Journal
- Kansas City Super Lawyer, Thomson Reuters, 2008-2016
- Thomas J. Conway Award, Kansas City Metropolitan Bar Association, 2007

PROFESSIONAL ASSOCIATIONS & MEMBERSHIPS

- American Association for Justice
- Arkansas Bar Association
- Kansas City Metropolitan Bar Association
- Kansas Bar Association
- Missouri Bar Association

CIVIC & CHARITABLE ACTIVITIES

- Saint Luke's Hospital of Kansas City, Vice President of the Board
- St. Luke's Cardiovascular Consultants, Past Board Member
- First Downs for Down Syndrome, Past Board Member
- Down Syndrome Guild of Greater Kansas City, Board Member and past-President of the Board

REPRESENTATIVE CASES

Motor Vehicle Personal Injuries – Represented Plaintiff in a Kansas personal injury action, whereby Plaintiff was injured after the vehicle she was driving on an interstate was struck from behind while it was stopped in a construction zone. Despite the Defendant driver having only \$100,000.00 in insurance coverage, Tom successfully resolved the case for his client for \$1,995,000.00, representing nearly twenty times the amount of the applicable coverage.

Nursing Home Injuries/Abuse – Represented Plaintiff in a Missouri nursing home wrongful death action, whereby Plaintiff's grandmother experienced an unwitnessed fall at the nursing home, which resulted in a right humerus fracture. Ultimately, Plaintiff's grandmother, the day before her 100th birthday, died as a result. Despite the nursing home having no insurance, Tom successfully resolved the case for his clients for \$350,000.00, representing the full amount of the applicable non-economic damage cap.

Nursing Home Injuries/Abuse – Represented Plaintiffs in a Missouri nursing home wrongful death action, whereby Plaintiffs' grandmother fell at the nursing home, fractured her knee, and ultimately died as a result. Despite the \$350,000 damage cap, Tom successfully resolved the case for his clients for the policy limit demand of \$1 million.

Nursing Home Injuries/Abuse – Represented Plaintiff in a Kansas nursing home pressure ulcer wrongful death case. Tom successfully resolved the case for his clients for \$500,000.

Nursing Home Injuries/Abuse – Represented Plaintiff in a Missouri nursing home drowning and hyperthermia wrongful death case. Tom successfully resolved the case for his clients for the policy limit demand of \$3 million, without confidentiality, and without Defendants denying fault.

Nursing Home Injuries/Abuse – Represented Plaintiff in a Missouri nursing home wrongful death case, whereby Plaintiff's mother, who had been on hospice for two years, fell, broke her hip, and died a week later. A pre-trial offer of \$15,000 was rejected. At the conclusion of the evidence, the jury was asked to award an amount of \$450,000. The jury returned a Plaintiff verdict for \$1.5 million in compensatory damages.

Landowners Class Action – Represented a class of Plaintiff landowners in a case involving allegations of property damage. A \$10 million class-action settlement was reached.

Product Liability Class Action – Represented Plaintiff in alleged state class action involving a defective product. Successfully defeated defendants' removal attempt based on the Class Action Fairness Act, by arguing that defendants failed to satisfy the traditional diversity requirements for plaintiff as set forth in 28 U.S.C.A. § 1332(a); case was not subject to removal to federal court.

Wrongful Death Litigation – Represented Plaintiff in a personal injury matter involving a traumatically brain-injured husband and father of two minor children against the owners, operators and managers of a double-decker motor carrier. Tom successfully litigated insurance coverage disputes against several of the Defendants, one of which involved successfully defeating an ancillary declaratory judgment action in federal court. Favorable pre-trial evidentiary rulings on Wentling damages were obtained, as well as a

favorable ruling on the question of whether a pro tanto credit is applicable in a comparative negligence case.

Business/Contract Litigation – Represented a business owner in a partnership separation dispute, whereby Tom successfully convinced a Jackson County, Missouri jury that his client's personal guaranty was not enforceable.

Business/Contract Litigation – Represented a product manufacturer in a dispute that involved the enforceability of an equity interest transfer agreement. Through litigation, Tom successfully enforced and collected on the terms and conditions of the agreement.

Business/Intellectual Property Litigation – Successfully represented a product manufacturer in federal court in the enforcement of certain intellectual property that was being misappropriated and misused by a competitor business.

Insurance Subrogation Litigation – Represented product manufacturers in lawsuits filed in multiple jurisdictions in both federal and state courts across the country, whereby the Plaintiff insurance company in each case was seeking to be subrogated for claims it paid out as a result of property damage incurred by its insured.

Professional Malpractice Litigation – Tried to verdict several cases on behalf of the Defendant doctor or nurse. Most recently, Tom obtained a defense verdict on behalf of a physician and a nurse practitioner in a case that involved a failure to diagnose a stroke.