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Dear Colleague:

Our 2018 *Year in Review* highlights a few of the personal injury, wrongful death, and medical malpractice cases we were able to resolve last year, ranging from pre-suit settlements to mediation, federal court settlement conferences, and trial. You may notice a greater prominence of our attorneys — Chris Stevenson, Jon Noyes and Kent Winingham — in these case descriptions. We hope you will enjoy learning more about their involvement in our firm’s litigation. Pairing their youth and energy with the experience of Bruce Kehoe and Bill Winingham help us to guide cases toward successful endings.

At the foundation of WKW is our attorney referral network, which creates a mutual benefit for clients, referring attorneys and our firm. We like to think that we offer concierge-style service to clients and attorneys alike, in that attorneys who refer clients to us feel an unparalleled level of respect and commitment by which they are served. We always strive to find a “win-win” arrangement in sharing fees and expenses. So, please do not hesitate to contact us to gauge our thoughts on any case where a client has been badly injured.

Thank you for taking the time to read our *Year in Review*, and we hope to hear from you in 2019.

Sincerely,

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2018

YEAR *in* REVIEW



THE LAW FIRM *of*
WILSON KEHOE WININGHAM

AUTOMOBILE / MOTORCYCLE INJURY

Our client and the defendant each claimed they had the green light at an intersectional collision causing brain injuries to two children in the client's car. Our client said an eyewitness truck driver saw the accident. Bill Winingham's investigator found the truck parked in a nearby neighborhood and confirmed the driver did, in fact, side with the plaintiff's account of events. The case was settled for the liability limits, and an underinsured motorist claim was also successful even though the UIM limits were less than the liability limits, relying upon *Lakes v. Grange Mut. Cas. Co.*, 964 N.E.2d 796 (Ind. 2012).

An elderly gentleman driving to an early-morning breakfast meeting was injured when he smashed into a truck and trailer parked in the travel lane of a street. The rear of the trailer did have the required retroreflective tape, and lights were allegedly on some of the equipment sitting on the trailer bed, but the trailer had no brake lights or flashers. Bill Winingham and Jon Noyes retained accident reconstruction and conspicuity experts to explain the difficulty that an approaching driver would have in recognizing the stopped truck and trailer, and the case was settled at mediation.

A husband and father suffered a severe brain injury after hitting a large pothole and being thrown from his motorcycle while on the highway. After being retained, Bruce Kehoe and Jon Noyes were able to demonstrate through local witnesses that the pothole existed for months without being repaired. WKW further demonstrated through expert testimony that motorists could not perceive and react to the pothole in time to avoid hitting it. Finally, WKW filed for partial summary judgment, arguing the man's non-helmet use could not be used as evidence of contributory negligence. The case settled at mediation.

PRODUCT LIABILITY

A seven-month-old Pennsylvania girl received second and third degree burns on her hands after coming into contact with a fireplace's glass front. The fireplace insert did not have a screen in place at the time of the incident. WKW alleged the fireplace was defective due to the lack of a protective screen, and performed an investigation into the incident, including conducting a joint inspection of the subject fireplace and obtaining a narrative report from the burn injury doctor. After submitting a pre-suit demand to the fireplace manufacturer, Chris Stevenson successfully negotiated a settlement which incorporated the need for future surgeries.

MEDICAL MALPRACTICE

Bruce Kehoe and Kent Winingham obtained a jury verdict at trial in Grant County for the widow and estate of a man whose multiple myeloma (cancer) went undiagnosed despite imaging demonstrating the presence of a neoplasm, which was a concern for cancer. As a result of this failed diagnosis, the man lived with severe pain for several years, not knowing a tumor was growing in his sacrum.

Multiple settlements were secured by Bruce Kehoe and Kent Winingham against the same podiatrist, and his practice group, for numerous failures in recommending inappropriate surgeries, improperly performing said surgeries, and carelessly monitoring patients post-operatively. These failures resulted in serious injuries to patients, ranging from those who required subsequent ankle fusions as a result of the negligence, to others who required amputations.

NURSING HOME MALPRACTICE

A nursing home settlement was obtained by Kent Winingham for the wrongful death of an elderly resident who was inappropriately left in the bathroom, unattended, and suffered an unwitnessed fall resulting in a cervical fracture, causing her death.

AVIATION INJURY

An airline lavatory smoke alarm was set off when a passenger used an e-cigarette in the lavatory. Flight attendants claimed they could not silence the alarm, so the captain made an emergency descent into Kansas City. During the rapid descent, our client suffered an internal ear injury that left him with tinnitus (ringing ear) and high frequency hearing loss. After deposing the crew and maintenance personnel, it was discovered that the flight attendants did not press the reset button on the smoke alarm, which would have likely silenced the alarm. Chris Stevenson alleged there was no need for a rapid descent, and that there was no true emergency present. With the help of an airline pilot expert and a radar data expert to show the aircraft's rapid descent, we settled the case at a Federal Court settlement conference.

SEXUAL ABUSE

Jon Noyes obtained a substantial recovery for an incapacitated young woman who was sexually assaulted by an ambulance service employee. The woman was unable to speak, control her extremities, and take care of her basic needs. The ambulance service argued it was not responsible because its employee acted outside the course and scope of his employment in assaulting the woman. However, WKW demonstrated that the ambulance service owed a non-delegable duty to the woman under Indiana's "common carrier exception" and moved for partial summary judgment on that issue. The case was settled within seven months of referral, and recovery was placed into a special needs trust for the woman's benefit.

RAPID RECOVERY

Five cases with significant injuries were settled within five to 15 months after WKW was retained, with suit filed in four of the five:

- A truck-van crash resulted in our client's broken hip and fractured knee when the defendant was looking at a laptop while driving. Fifteen months later, the case reached settlement in mediation.
- A semi driver was busy watching a movie on his laptop when his truck crashed into a car on the interstate, causing multiple injuries to the out-of-state plaintiff. At a federal court settlement conference 14 months later, the case was settled.
- When liability was disputed in a motorcycle accident that resulted in bilateral arm and wrist fractures, WKW hired an accident reconstruction expert to develop a report. The case reached settlement at mediation 13 months after the incident.
- A case involving an intersectional truck-car crash with multiple spinal fractures was settled 11 months after the collision without suit being necessary.
- After WKW joined late in the litigation of a suit involving a quadriplegic injury to bar patron based on a claim of breach of security, the case was settled at mediation five months later.

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