



**Wilson
Kehoe
Winingham** LLC

Year in Review

2022 Firm Highlights and Notable Cases



Dear Colleague:

We're grateful to share with you a selection of WKW highlights and interesting cases we've resolved in the past year—many of which were referred to our firm by attorneys like yourself.

Referred cases are not only an integral part of our work but are a testament to the relationships and trust we've built in the Indiana legal community and beyond. When you send a case our way, you can rest assured knowing that our decades of experience and strong support staff provide a level of case management expected in your own practice.

Whether you're looking to refer a case, are seeking co-counsel, or simply want to reconnect, we hope to hear from you in 2023!

DT Ben Sisk *Wm E W* *Christopher J Stevenson*
Jon Noyes *Emily VanTyle* *W Kent Winingham*



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Bruce Kehoe

2022 HIGHLIGHT

Recognized by
Top 10 Super Lawyers List
for the
15th Consecutive Year

PRIMARY PRACTICE AREAS

Birth Injury
Obstetrical Malpractice
Spinal Cord Injury
Auto and Truck Collision

CONNECT WITH BRUCE

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CLASS ACTION

\$2.5 Million Class Action Settlement for Toll Users

Jon Noyes and Bill Winingham achieved a \$2.5 million class action settlement for customers of the Riverlink Toll System—a public toll system between Kentucky and Indiana. WKW alleged Riverlink charged customers fees for failing to pay toll notices that were never mailed to them and failed to meet other notice and timing requirements.

MEDICAL MALPRACTICE

Record Year for Medical Malpractice Recoveries

Clients of WKW experienced a record year in medical malpractice recoveries, including the settlement of multiple cases for excess damages with the Patient Compensation Fund. Our firm continues to specialize in birth injury cases, which often can be difficult to prove on causation. A few of the cases settled with the Fund for excess damages on behalf of our clients include:

- A twenty-one-year-old woman experienced unexpected vaginal bleeding after giving birth. The OB-GYN failed to appropriately recognize the bleed, resulting in a pseudoaneurysm and hysterectomy for the woman. The case settled for excess damages with the Fund.
- A newborn began to suffer from hypoglycemia, which was not recognized by the pediatricians attending to the child. Ultimately, the child suffered from neonatal hypoglycemic brain injury with resulting epilepsy, seizures, and visual impairment. After settlement with qualified healthcare providers, litigation ensued with the Fund and ultimately an additional settlement was garnered.
- A young teacher went to her primary care physician complaining of shortness of breath, decreased oxygenation, and increased heart rate following an emergency room visit with similar complaints. The primary care physician failed to run a simple blood test to determine if she had a pulmonary embolism. The teacher died only days later. Ultimately, the case was settled by the doctor and a settlement was reached by Bruce Kehoe and Emily VanTyle with the Fund for excess damages.

NURSING HOME NEGLIGENCE

Nursing Home Resident's Fall Results in Death

An elderly woman at a nursing home fell out of her bed, hit her head, and did not have appropriate neurologic assessments done to evaluate her condition after the fall. She deteriorated rapidly, and it took her daughter's insistence that she go to the hospital for the nursing home to finally transport her. At the hospital, she was diagnosed with a brain bleed and subsequently died with the main cause of death being the brain bleed and blunt force injury to the head. The investigation by the Indiana State Department of Health was supportive of the plaintiff's allegations and provided great detail as to the circumstances of the woman's fall and subsequent death. Kent Winingham resolved the matter prior to any Medical Review Panel proceeding.

MOTORCYCLE ACCIDENT

Summary Judgment Victory on Independent Contractor Issue

A motorcyclist suffered a back injury leaving him paralyzed after a box truck turned left in front of him. The box truck was hauling equipment for an HVAC company. WKW sued the HVAC company and the box truck company claiming that the box truck driver was really an employee of the HVAC company, and thus, the HVAC company could be liable for the driver's negligence. WKW attorney Chris Stevenson successfully defeated the HVAC company's motion for summary judgment, where it claimed that the driver was an independent contractor. The case was successfully mediated within a few months of trial with the HVAC company, box truck company, and an underinsured policy contributing to the sum.



Chris Stevenson

2022 HIGHLIGHT

Recognized by
Super Lawyers
for the
Ninth Year

PRIMARY PRACTICE AREAS

Aviation
Construction
Carbon Monoxide
Auto and Truck Collision

CONNECT WITH CHRIS

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Kent Winingham

2022 HIGHLIGHT

Representing and
Advocating for Victims of
Dr. Donald Cline

PRIMARY PRACTICE AREAS

Auto and Truck Collision
Medical Malpractice
Nursing Home Neglect

CONNECT WITH KENT

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MEDICAL NEGLIGENCE

Undiagnosed Pulmonary Embolism Leads to Death

A 28-year-old man went to an emergency room pale and diaphoretic, with progressive shortness of breath, wheezing, chest tightness, and with concerning respiratory rates and oxygen levels. However, the emergency room discharged him without consideration for pulmonary embolism. Approximately 17 hours after discharge he became unresponsive at his parents' home, was transported back to the emergency room, and died of a pulmonary embolism. WKW alleged that a d-dimer test should have been performed and that pulmonary embolism should have been considered. WKW took the deposition of the emergency room physician, and proceeded to the Medical Review Panel where they received a 3-0 unanimous opinion in the plaintiff's favor. Kent Winingham settled the case soon after.

Delayed Diagnosis Leads to Avascular Necrosis

A 10-year-old girl fell off of a hoverboard and went to her primary care physician with complaints of right leg pain. She continued to complain of pain to her right leg and hip, but her primary care providers did no x-ray or imaging of her right hip until almost six weeks after her initial injury. By the time she was referred to a pediatric orthopedic surgeon, she had developed severe avascular necrosis to her right hip joint and had a slipped capital femoral epiphysis that had gone untreated.

She required a hip revision, and her treating orthopedic surgeon provided a narrative report to WKW opining that she will require anywhere from four to seven more hip replacements over the course of her life. WKW took the deposition of the healthcare providers and received a unanimous 3-0 Medical Review Panel opinion in the plaintiff's favor. Kent Winingham resolved the case for access to the Patient's Compensation Fund.



Two WKW Attorneys Named Trial Lawyers of the Year

The Indiana Trial Lawyers Association (ITLA) named Bill Winingham and Jon Noyes as its 2022 Trial Lawyers of the Year.

ITLA awards this distinction to a trial lawyer who among other things goes above and beyond to uphold the honor of the legal profession. As one of the duo's letters of recommendation read, "They help so many citizens of this state as well as many lawyers by their commitment, leadership, and willingness to help." We couldn't agree more.

Bill and Jon were honored at ITLA's Annual Institute in November. We celebrated the award winners with colleagues and family at the Indianapolis ArtsGarden. Pictured to the left are Bill and Jon, Jon with his wife Jen, and Bill with his wife Maureen.

WKW
Summer
Party

In August, we hosted our Summer Party at Sun King Distillery in Midtown Carmel. Our group of staff, colleagues, friends, and family occupied the upstairs patio overlooking the Monon Trail.



TRUCKING INJURY

Traumatic Brain Injury Case

After the owner of a small construction company suffered a traumatic brain injury when hit by a truck at an intersection, he contacted WKW. A lawsuit was filed in federal court against the trucking company and driver. Evidence was uncovered which prompted the defense to admit liability. The videotaped deposition of the injured man proved that he could not remember simple things such as the name of his granddaughter who lived with him and his wife. Bill Winingham and Emily VanTyle settled the case at mediation.

Our staff of attorneys, paralegals, legal nurse consultants, and legal research clerks collaborates with a network of investigators, industry experts, videographers, and medical graphic and animation experts to ensure the best possible case outcomes.



Alleged Inadequate Vetting of Truck Driver

When a speeding truck driver rear-ended and killed a mother and her twin daughters, WKW learned that the trucking company had hired another company to vet the driver before hiring him. It turned out that the truck driver had a poor driving record with previous accidents, terminations, and a conviction for falsely stating information to obtain his CDL. A lawsuit was instituted claiming negligence on the part of the company that did the vetting. Suing a truck driver vetting company was very unusual and one of the first of its kind. The case was settled by Bill Winingham and Jon Noyes at mediation.

Video Production Helps Lead to Recovery

A 43-year-old man was rear-ended by a box truck while stopped at a light, causing an aggravation of underlying neck, back, and shoulder pain. After being treated with a series of injections and ablations, he continued to get no relief. Another firm came to WKW when the defense balked at appreciating the severity of the injuries given the man's underlying history of pain and treatment.

WKW met with multiple physicians, received narrative reports, interviewed the treating chiropractor by video, created a video documentary highlighting the client's damages, and provided the videos to the defense prior to mediation. WKW also obtained a Rule 35 exam of our client. Kent and Bill Winingham, with co-counsel, settled the case at a second mediation for more than twice the original offer made at the first mediation prior to utilizing video interviews and video documentary support.



Emily VanTyle

2022 HIGHLIGHT

Distinguished Leadership
Award Recipient
by the IndyBar
Young Lawyers Division

PRIMARY PRACTICE AREAS

Birth Injury
Medical Malpractice
Auto and Truck Collision
Products Liability

CONNECT WITH EMILY

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Bill Winingham

2022 HIGHLIGHT

Named ITLA
Co-Trial Lawyer
of the Year

PRIMARY PRACTICE AREAS

Auto and Truck Collision
Catastrophic Injury
Products Liability

CONNECT WITH BILL

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PREMISES LIABILITY

Drone Photos and Video Lead to Settlement

A physician was injured when he fell on ice on a sidewalk at the home of a real estate professional. WKW used a drone to take extremely detailed videos and photographs of the area of the fall, showing exactly where it was most likely that the ice had accumulated. The use of drone video and photographs in depositions helped Bill Winingham move the case toward a mediated settlement.

Mold Nightmare

A young family thought they were moving into the apartment of their dreams, but it quickly became a nightmare as mold started growing on their clothes and furniture, and inside their bodies. The family became very sick, lost everything they owned, and had to start over from scratch. WKW was able to establish the mold in the apartment arose from long-standing maintenance issues and poor training. After providing expert reports and taking several depositions, Jon Noyes negotiated a settlement for the family before mediation.

Dog Bite to Face of Young Boy

A boy was bitten in the face by a dog when he reportedly went up to pet the dog in the front yard of where the dog lived. The dog was of a breed that was known to be extremely protective and at times vicious, but had not yet been named as a breed presumed dangerous under Indiana law. A detailed report from a treating plastic surgeon helped Bill Winingham reach a settlement with the homeowner's insurance carrier before a lawsuit was necessary.

Slip and Fall on Ice

A young woman suffered a terrible ankle injury when she slipped on a patch of ice early in the morning at a strip shopping center after she parked and started to step out of her truck to go to a workout center. Her boyfriend came and took photos and video of the scene shortly after it happened. The property manager, property owner, and snow and ice removal company were all named as defendants. Records obtained in discovery revealed that no effort had been made to salt the area the day before the incident, even though it had snowed several days in a row at that point. Bill Winingham and Jon Noyes settled the case at mediation.

Fall on Homeowner's Icy Walkway

A Girl Scout's mother arrived at another mother's house to pick up cookies when she slipped and fell on a patch of ice in the walkway leading to the front door. Through the depositions of the homeowners, and photographs provided in the middle of their depositions, WKW was able to discover that a gutter regularly leaked onto the area of the walkway where ice had formed and that the homeowners had notice of this. WKW argued that despite knowing this, and that other mothers would be arriving at the house to pick up cookies, the homeowners failed to salt the walkway or warn mothers of the ice. WKW's client suffered a right humerus fracture requiring surgery (open reduction internal fixation). Kent Winingham settled the case at mediation.



Jon Noyes

2022 HIGHLIGHT

Named ITLA
Co-Trial Lawyer
of the Year

PRIMARY PRACTICE AREAS

Auto and Truck Collision
Construction Injury
Tree Failure

CONNECT WITH JON

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Dr. Cline Fertility Malpractice Cases

Kent Winingham and Emily VanTyle currently represent 17 victims of former OB-GYN and fertility specialist, Donald Cline, MD.

Donald Cline's alleged conduct was the subject of the Netflix series, *Our Father*. It is alleged that over many years, Dr. Cline, without consent, used his own sperm to inseminate many of his patients and thus has fathered more than 90 known children. Among Kent and Emily's clients are women who are survivors of this alleged conduct, men who believed they were natural fathers of their children for the last several decades but are, in fact, not, and children who have recently discovered they are natural children of Dr. Cline.



Kent Winingham appeared on Indianapolis' Fox59 with Angela Ganote in May 2022 to offer legal insight into the ongoing Dr. Cline settlements.

Kent also spoke with Fox59 in November 2022 regarding the process WKW is currently overseeing for its clients. View the segment at: tinyurl.com/wkw-cline

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YEARS IN PRACTICE

4K+

CASES SUCCESSFULLY
RESOLVED
FOR OUR CLIENTS

2

LEGAL NURSE
CONSULTANTS
ON-STAFF

12

PRIMARY
PRACTICE AREAS

Team up with us!

WKW loves working with other attorneys on a referral or co-counsel basis. If you need support on a case, give us a call.

WKW.com | 317.920.6400

WKW has earned a distinguishable reputation with experience in injury cases involving:

- Auto and Truck Collisions
- Medical Malpractice
- Birth Injury
- Spinal Cord Injury
- Brain Injury
- Premises Liability
- Products Liability
- Aviation
- Farming Accidents
- Nursing Home Negligence





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