



Thomas C. Hays

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During his 45+ years of actively practicing law, Tom has tried more than 75 jury cases and has maintained a strong trial practice. He has been a certified Indiana mediator since 1991, and now devotes his practice exclusively to mediation and arbitration. His litigation experience, from strategic case handling through trial, has positioned him to transition well into an exclusive mediation practice. Tom has an honest demeanor when dealing with his wide network of plaintiff and defense attorneys across Indiana. Having tried cases on both sides of the fence, he has gained the respect of members of the defense and plaintiff's bar alike.

Practice Areas

Alternative Dispute Resolution
Premises Liability

Biography

Tom has been a partner at Lewis Wagner for more than 35 years in the litigation group and now concentrates his practice on alternative dispute resolution, including mediation and arbitration. He is a graduate of Indiana University and the Woodrow Wilson School of Law in Atlanta, Georgia. He joined the firm in 1985 where he first focused on defending insurers and self-insured companies from claims involving personal injury, product liability, wrongful death, construction, automobile, transportation, bad faith, and breach of contract.

Tom is former president of both the Indiana chapter of the American Board of Trial Advocates and the *Defense Trial Counsel of Indiana*. He was also named a Distinguished Barrister by *Indiana Lawyer* in 2016 and has been among the Top 50 attorneys in Indiana by *Super Lawyers* from 2012-2022. He was awarded the Indiana State Bar Association Litigation Section "Civility Award" in 2005 and has been named to the *Best Lawyers in America* for the past 13 years.

A Hoosier native, Tom is an avid Pacers and Colts fan who enjoys attending games with his wife, Mary Linda. He also enjoys golf and bicycling.

Accolades, Affiliations and Activities

- American Bar Association
- American Board of Trial Advocates
 - Past President, Indiana Chapter, 2006
- Association of Attorney-Mediators
- *Defense Research Institute*
- *Defense Trial Counsel of Indiana*
 - Board of Directors, 2004-present
 - Past President, 2015
- Georgia State Bar Association
- Indiana State Bar Association - Litigation Section's Civility Award, 2005
- *Indiana Super Lawyers*, 2005-2023
 - Top 50, 2012-2023
- Indianapolis Bar Association
 - Homeless Program, 2006-2021
- Indianapolis Bar Foundation Distinguished Fellow
- International Association of Defense Counsel
- *Martindale-Hubbell Peer Review* - Rated AV[®] Preeminent
- National Academy of Distinguished Neutrals
- National Association of Distinguished Neutrals
- National Institute for Trial Advocacy - Diplomat
- *The Best Lawyers in America*, 2010-2022
 - Inaugural Business Litigation Issue - Personal Injury Litigation, 2019
 - Indianapolis Lawyer of the Year - Arbitration, 2016, 2018, 2022
 - Indianapolis Lawyer of the Year - Personal Injury Litigation - Defendants, 2020
 - Indianapolis Lawyer of the Year - Mediation, 2019
- *The Indiana Lawyer* - Distinguished Barrister, 2016

Publications and Presentations

- "Mediators as Evaluators - Weighing Risks in Resolutions," *The Indiana Lawyer*, October 2, 2019.
- Opening and closing statements, Indianapolis Bar Association, May 30, 2019.
- "Negotiating and Litigating the Damages: Defense Perspective, Damages in Personal Injury," *National Business Institute (NBI)*, Indianapolis, March 15, 2018.
- "Prepare to Break Through Mediation Impasses," *The Indiana Lawyer*, May 2, 2018.
- "Do Not Treat Mediation as Routine and Ordinary," *The Indiana Lawyer*, May 3, 2017.
- Advanced Civil Mediation Roundtable, Indiana Continuing Legal Education Forum (ICLEF), French Lick, November 2017.
- Speaker: "9 Ancillary Issues in Personal Injury Litigation," ICLEF, Indianapolis, September 28, 2016.
- "Structuring the Closing Argument in the TBI Case, Trying the Traumatic Brain Injury Case," ICLEF, December 18, 2013.
- Chair: "Sharpening Your Tools of Persuasion," *Defense Trial Counsel of Indiana* annual meeting, French Lick, November 16-18, 2011.
- "It's Not A Crap Shoot!," Trial Skills, IndyBar, Las Vegas, Destination CLE, October 2011.
- Opening Statements: Trial Tactics, DTCL annual meeting, 2010.
- "Taking Depositions that Win or Lose Your Case," Indianapolis Bar Association, March 2009.
- "Trying Cases for Premises Owners," ICLEF, February 2009.
- "Are you Prepared for Accidents? Legal Considerations for the Construction Employer," *NBI*, August 2008.
- "60 Minutes to Better Jury Instructions," Indianapolis Bar Association, August 2008.
- "New Interpretation of Additional Insured," *The Indiana Lawyer*, December 2008.
- "There's More to Arbitration Than You Think," *The Indiana Lawyer*, March 2007.
- "Avoiding Waiver of Contractual Limitation," *The Indiana Lawyer*, 2006.
- "New Trial Rules, Strategies and Tips," ISBA Indiana Solo and Small Firm Conference, 2007.
- "Mediation and Jury Trial In Indiana," Zurich North America, 2006.
- "Premises Liability - Slip, Trip and Fall, Closing Arguments From a Defense Perspective," ICLEF, 2005.

Selected Cases and Representation

- *Tunny v. Erie Ins. Co.*, 790 N.E.2d 1009, 2003 WL 25283307, 25283308 (Ind. Ct. App. 2003)
- *Pelak v. Indiana Indus. Servs., Inc.*, 831 N.E.2d 765, 2004 WL 3557044 (Ind. Ct. App. 2005)
- *Bay v. Pulliam*, 872 N.E.2d 666, 2007 WL 1786604 (Ind. Ct. App. 2007)
- *Cross v. Bon L. Mfg. Co.*, 893 N.E.2d 780, 2008 WL 6743611 (Ind. Ct. App. 2008)
- *Abernathy v. Erie Ins. Exch.*, 908 N.E.2d 712, 2009 WL 393588 (Ind. Ct. App. 2009)
- *J.C. Penney Co. v. Simon Prop. Grp., Inc.*, 928 N.E.2d 579, 2010 WL 265002 (Ind. Ct. App. 2010)
- *Regula v. HPG Corp.*, 967 N.E.2d 578, 2011 WL 7099468 (Ind. Ct. App. 2012)
- *Kelly v. GEPA Hotel Owner Indianapolis LLC*, 993 N.E.2d 216, 2013 WL 1293526 (Ind. Ct. App. 2013)
- *Hamilton v. Steak 'n Shake Operations Inc.*, 92 N.E.3d 1166, 2017 WL 10669514 (Ind. Ct. App. 2018)
- *Certa v. Steak 'n Shake Operations Inc.*, 102 N.E.3d 336, 2018 WL 6830207 (Ind. Ct. App. 2018)