

## SELECT CASES & RESULTS

### MEDICAL NEGLIGENCE



PETER SCHMIT

Negligent failure to appropriately monitor respiratory distress in the emergency room resulted in respiratory arrest, cardiac arrest, anoxic brain injury and death of a 29-year-old single woman, who is survived by her parents and grandmother. The main issue was a delay in treatment of minutes duration. The case settled at mediation for \$500,000.



PETER SCHMIT AND MELISSA MILBERT WENDLAND

A 69 year-old-man died of mechanical asphyxia after his tracheostomy tube cuff was negligently left inflated by a hospital employee, which caused air to enter his lungs but not exit. Given his serious health issues, the decedent was unlikely to survive for more than a year. The case settled in pre-suit mediation for a confidential amount.



TERRY WADE

A newborn baby boy was born a few weeks early in 2011 in a rural Minnesota hospital. He was placed on a gel heating pad in the nursery. The manufacturer's directions make clear that this heating pad should not be used on newborns. The boy experienced burns from his right shoulder blade to his buttocks. Some of these burns resulted in scarring that is likely to be permanent although they will recede with time. Medical expenses associated with treatment of the burns were less than \$3,000. There was no liability defense possible and pre-suit settlement negotiations focused on damages. The case settled for \$350,000.

### MEDICAL NEGLIGENCE – DRUG MEDICATION ERRORS



KATHLEEN FLYNN PETERSON AND MELISSA MILBERT WENDLAND

Kathleen Flynn Peterson and Melissa Milbert Wendland recently obtained a \$575,000 settlement on behalf of a 74-year-old woman in Minnesota. She was injured from an overdose after a pharmacist negligently filled her methotrexate prescription—a drug used to treat rheumatoid arthritis—with methadone, a controlled substance most commonly used to treat people addicted to heroin. The case settled in mediation without having to file a lawsuit.



This case illustrates just one of a number of prescription error cases that attorneys at Robins, Kaplan, Miller & Ciresi L.L.P. have pursued against negligent medical providers and pharmacists. Kathleen, Melissa, and their colleagues are committed to seeking justice for their clients who suffer injuries as a result of medication errors and raising awareness for changes in the medical community to protect patients' safety.

## MASS TORT DEPARTMENT RECEIVES NATIONAL AND LOCAL TIER 1 RATING

In the 2013 "Best Law Firms List" compiled by *U.S. News and Best Lawyers*, Robins, Kaplan Miller & Ciresi L.L.P. received National and Minneapolis Tier 1 rankings in the categories of Mass Tort Litigation/Class Action – Plaintiffs and Product Liability Litigation – Plaintiffs. The firm is one of nine firms nationwide to receive a National Tier 1 ranking in the Mass Tort Litigation/Class Action Plaintiffs category, and the only firm in Minnesota to receive a National Tier 1 ranking in this category. The Mass Tort practice has been ranked both nationally and locally in Tier 1 since 2010.



According to the *U.S. News Media Group* and *Best Lawyers*, the 2013 rankings showcase 10,324 different law firms ranked nationally in one or more of 80 major legal practice areas and in metropolitan or state rankings in one or more of 118 major legal practice areas. The 2013 edition of *The Best Lawyers in America* is based on more than 4.3 million detailed evaluations of lawyers by other lawyers, and were rated on expertise, responsiveness, business skills, cost-effectiveness, social aspects, and whether a responder would refer a client to the firm.

## DEFECTIVE DRUGS & PRODUCTS

The Mass Tort Department is currently investigating and litigating the following:

- Metal hip implants that fail prematurely, including claims involving the recalled Stryker Rejuvenate and ABGII modular-neck hip stems, the recalled DePuy ASR XL Acetabular Hip System, Zimmer Durom Cup, DePuy Pinnacle Hip system, Wright Profemur, Wright Conserve, and Biomet M2a-Magnum.
- Femur Fractures or Jaw Osteonecrosis related to the bisphosphate Fosamax
- Failed Zimmer NexGen Knee Implants
- Property damage from Imprelis Herbicide, which was pulled from the market in 2011
- Sudden death or strokes while undergoing kidney dialysis using the recalled GranuFlo or NaturaLyte dialysates

## AWARDS & RECOGNITION

Robins, Kaplan, Miller & Ciresi L.L.P. is honored to have been recognized by various publications and third party sources in the following categories for our Medical Malpractice, Personal Injury and Mass Tort practices. We couldn't attain these rankings without you and we want to acknowledge and thank you for your support of our practice. We appreciate it.



### ***The Best Lawyers in America (2013)***

Michael V. Ciresi  
John F. Eisberg  
Leo F. Feeny  
James L. Fetterly  
Chris Messerly  
Kathleen Flynn Peterson  
Philip Sieff

### ***Super Lawyers & Rising Stars (2012)***

#### ***Super Lawyers***

John Eisberg  
James Fetterly  
Chris Messerly  
Vincent Moccio  
Kathleen Flynn Peterson  
Peter Schmit  
Philip Sieff  
Tara Sutton  
Terry Wade

#### ***Rising Stars***

Kate Jaycox

### ***Benchmark Litigation (2012) – Top 250 Women in Litigation***

Kathleen Flynn Peterson

### ***Best Lawyers (2012) – Minneapolis Plaintiffs Law Lawyer of the Year***

Kathleen Flynn Peterson

### ***The 500 Limelight (Lawdragon.com)***

Kathleen Flynn Peterson

# THE ROBINS JUSTICE REPORT

## ROBINS, KAPLAN, MILLER & CIRESI L.L.P. ANNOUNCES ATTORNEYS NAMED TO PRINCIPAL

Robins, Kaplan, Miller & Ciresi L.L.P. is pleased to announce that **Kate Jaycox** (Mass Tort) and **Brandon Thompson** (Medical Malpractice & Personal Injury), along with Aaron Fahrenkrog, Ryan Marth, Matthew McFarlane, Jonathan Mutch, Seth Northrop, Denise Rahne, and Sharon Roberg-Perez have become Principals in the firm as of January 1, 2013.

## THIS ISSUE'S SPOTLIGHTS



Melissa Milbert  
Wendland

### MELISSA MILBERT WENDLAND – ASSOCIATE

Melissa Milbert Wendland was raised in South St. Paul, Minnesota. Like many of her brethren townfolk, she spent countless hours playing pick-up hockey outdoors with her neighbors and siblings. Melissa found her advocacy skills put to the test at a young age when she vocally and aggressively promoted the start of the first state-sanctioned high-school girls' ice hockey team in Minnesota. She then attended Harvard, where she was a four-year letterwinner for the Harvard Women's Ice Hockey Team—a career highlighted with the team winning a national championship.

After college, Melissa's path crossed with Robins, Kaplan, Miller & Ciresi L.L.P. when she was employed as a case assistant in part to help with a Title IX ice hockey case. Her experience also working on a large personal injury and products liability case then led her to law school, after which she joined the firm upon graduation over seven years ago. After spending the beginning of her legal career traveling the country representing individual patent inventors and corporate clients, Melissa chose to go back to her roots and get her competitive fix by representing "the little guy (gal)"—families and individuals who have been injured in cases involving medical malpractice, personal injury, products liability and other harm caused by wrongdoers.

Melissa and her husband John now enjoy the challenge of watching their 5-year-old son Jack's 7:00 a.m. mites hockey practice while they chase, wrestle, and/or hold 3-year-old daughter Eleanor and 5-month-old son Alex.

### LISA BIRCHEN – SENIOR PARALEGAL

Lisa has been a paralegal at Robins, Kaplan, Miller & Ciresi L.L.P. since 1981, following her graduation from Winona State University with a B.S. degree in Paralegal Studies. For most of her 32 years at the firm, Lisa has worked in the areas of medical negligence and personal injury. She works with partners Chris Messerly and Peter Schmit on nearly all of their cases. Lisa is involved in all aspects of the personal injury cases from the initial client interview through trial preparation. On the medical negligence matters, she works as part of the attorney/nurse/paralegal team and is responsible for the damages aspect of the cases. Lisa finds it satisfying to provide support and assistance to clients who are struggling with a life-changing injury or the death of a family member. She enjoys getting to know the clients and their families and is motivated by the goal of achieving justice and compensation on their behalf.

Past results are reported to provide the reader with an indication of the type of litigation in which we practice and does not and should not be construed to create an expectation of result in any other case as all cases are dependent upon their own unique fact situation and applicable law. This publication is not intended as, and should not be used by you as, legal advice, but rather as a touchstone for reflection and discussion with others about these important issues. Pursuant to requirements related to practice before the U. S. Internal Revenue Service, any tax advice contained in this communication is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the U. S. Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

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ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

800 LaSalle Avenue  
2800 LaSalle Plaza  
Minneapolis, MN 55402  
612-349-8500  
800-553-9910  
rkmc.com