HUSCH BLACKWELL



Scott W. Martin

SENIOR COUNSEL

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OVERVIEW

Scott concentrates his practice in complex business litigation matters and defense. He represents physicians, nurses, hospitals and long-term providers in professional negligence lawsuits, as well as corporations, officers and directors in commercial disputes.

As part of that healthcare and medical defense, Scott regularly represents corporate clients and individual care providers in litigation involving professional malpractice, regulatory issues, compliance and insurance. His representation of nursing homes includes:

- Defending against “immediate jeopardy” citations.
- Defending against negligence and wrongful death claims.

Scott also has significant experience in product liability and insurance litigation. In the area of product liability, he defends personal injury and wrongful death claims involving products that range from household items to industrial toxic chemicals. In the area of business litigation, he assists clients in matters ranging from breach of contract and fraud to foreclosure.

In addition, he has represented national bank and lending institution defendants in class action lawsuits and federal and state judges in claims arising from judicial conduct. He has won decisions in the U.S. Court of Appeals and obtained monetary and equitable relief for clients before the American Arbitration Association.

Industry

Healthcare

Services

Class Action Defense
Healthcare Litigation
Healthcare Operations
Healthcare Providers
Hospice & Palliative Care
Litigation & Alternative Dispute Resolution
Post-Acute Care
Product Liability
Staffing, Recruiting, and Workforce Solutions

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Experience

- Represented a nursing home in appeal before the U.S. Department of Health and Human Services (HHS), Departmental Appeals Board, Civil Remedies Division, to overturn a citation of immediate jeopardy that had been issued by the Centers for Medicare and Medicaid Services (CMS). The citation arose from a resident who suffered from a urinary tract infection and subsequently died. CMS claimed the nursing home staff had failed to recognize and treat the resident's urinary tract infection. At the original trial, the resident's two outside treating physicians and the facility staff testified that the resident's urinary tract infection had been timely diagnosed and treated. CMS presented the testimony of a CMS investigator and retained expert. The department found in client's favor and revoked the citation.
- Served as part of a trial team that included local counsel representing a nursing home in a case where plaintiffs claimed negligence, *res ipsa loquitor*, wrongful death and punitive damages. Plaintiffs claimed that the nursing home staff had negligently transferred the resident into bed, causing injuries. The plaintiffs' original settlement demand was in the range of $5 million and their final settlement demand was $3.95 million; the final offer from the defendant's insurer was $500,000. The jury awarded $306,314 for all claims and punitive damages were submitted, but not awarded.

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Experience

- Defended a matter involving seven nursing home residents whose care had been cited in violation of the Social Security Act and Code of Federal Regulations. CMS determined that the nursing home's care and treatment had placed these seven residents in immediate jeopardy of serious injury or death. During cross examination, the primary witness and representative for CMS admitted that the care for six of the seven residents did not support a finding of immediate jeopardy. Counsel for CMS later stipulated that the care for these six residents would be excluded from the citations. The remaining resident's care involved nursing care provided to a resident who subsequently died. CMS claimed that the nurses had failed to respond to changes in the resident's condition and did not notify a physician of these changes. The defense was that these nurses had adequately monitored and responded to this resident's condition and that the physicians were timely notified of all significant changes. The court ultimately ruled in favor of the client on all counts and rescinded the citation.
- Represented a nursing home in a case where plaintiffs claimed negligence based upon a resident's unattended fall in the restroom. The resident was recuperating from an illness and was due to be discharged the following day. The resident fell and broke her back. Plaintiffs' original demand was $1.75 million. After plaintiffs' depositions, the parties agreed to mediate the case and reached a confidential settlement for less than the costs of defense.
- Represented client in a class action lawsuit involving claims against multiple mortgage companies relating to allegedly improper fees that borrowers were charged to close their second mortgage loans. Plaintiffs claimed that the originator of 346 loans in Missouri had charged illegal fees and later assigned these loans to unrelated mortgage companies. Plaintiffs received verdict against all assignee defendants. Client had received 10 percent of the assigned loans and was found responsible for approximately 3 percent of the verdict.

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Recognition

- Martindale-Hubbell AV Preeminent
- Missouri & Kansas Super Lawyers, Personal Injury Defense: Medical Malpractice, 2017-2021

Education

- J.D., Northwestern University Pritzker School of Law
- B.B.A., Washburn University
    - *summa cum laude*

Admissions

- Missouri
- Kansas
- U.S. District Court, Western District of Missouri
- U.S. District Court, District of Kansas
- U.S. District Court, District of Colorado

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