

Thomas C. O'Brien

SERVICE AREAS

Business

- Health Law
 - Fraud, Abuse + False Claims

Litigation + Trial

- Criminal Defense
- Litigation + Trial Practice Overview

Governments + Nonprofits

- Health Law
 - Fraud, Abuse + False Claims

EDUCATION

- University of Detroit Mercy School of Law, J.D.
- Eastern Michigan University, B.S.

BAR ADMISSIONS

- Michigan



Senior Counsel

Ann Arbor

101 North Main Street
7th Floor
Ann Arbor, Michigan 48104

T: +1.734.668.8979

F: +1.734.663.8624

obrient@millercanfield.com

During more than three decades of practice, Thomas C. O'Brien has handled major criminal and civil matters, including cases that received national attention. His criminal practice has included murder trials and white-collar crime, while his civil cases have encompassed catastrophic personal injuries and contract disputes. In addition, he has defended lawyers in malpractice claims. Tom also has lectured and taught throughout the United States in the field of trial advocacy at the National Institute for Trial Advocacy, the University of Michigan Law School and the Institute of Continuing Legal Education.

Tom's clients call him an articulate, experienced and highly effective trial lawyer who relates well with juries and has achieved exceptional results over the years.

EXPERIENCE

Tom defended a 17-year-old charged with manslaughter after his snowmobile crashed through the windshield of a car, instantly killing the driver. During a three-day preliminary examination before a district judge, Tom and his team presented testimony to counter the prosecution's claim that the snowmobile went airborne at a rural intersection in excess of 60 mph. The young man contended that he was going less than 30 mph when he came up a steep hill and entered the intersection. At that point, he said the car crossed the center line into the oncoming lane. To avoid a head-on collision, the young man quickly accelerated, causing the front-end of his snowmobile to lift off the ground. The snowmobile then struck the car, climbed up the hood and went through the windshield. A careful examination of the car revealed snowmobile tread tracks on the front bumper, directly supporting the young man's version of the events and contradicting the prosecution's theory that the

snowmobile flew through the air for several feet before crashing through the windshield. Tom's team also offered evidence that the driver of the other vehicle had smoked marijuana just before the accident. The circuit judge who reviewed a transcript of the preliminary examination found that there was insufficient evidence to support the claim that the young man "knowingly created a high risk of death or great bodily harm knowing that death or such harm would be the likely result of his actions." After protracted litigation, the judge dismissed the felony charge, and the young man was put on probation as a youthful offender.

"The most gratifying part of practicing law is knowing that someone in desperate need of legal services has placed their trust in you and, through your experience, you have made a significant difference in the outcome of a life-altering case."

REPRESENTATIVE MATTERS

- Media and Marketing Services Company Antitrust Action
Trial counsel for Valassis Communications, Inc. in its legal battle with News America, Inc., a part of Rupert Murdoch's News Corporation. Obtained \$300 million jury verdict after an eight-week trial in July 2009, the eighth-largest jury verdict in the United States in 2009. As part of a comprehensive settlement--reached three days before the parties were scheduled to begin a second jury trial in Federal Court in Detroit--News America agreed to pay Valassis \$500 million and enter into a 10-year shared mail distribution agreement with Valassis. Valassis Communications, Inc. v News America Inc., Case No. 07-706645 (Wayne County Circuit Court 2007); Valassis Communications, Inc. v News America Inc., Case No. 2:06-cv-10240 (Eastern District of Michigan 2006); Valassis Communications, Inc. v News America Inc., Case No. BC367743, (Los Angeles County Superior Court, California 2007).

PROFESSIONAL ACTIVITIES

- American Bar Association, Section on Litigation; Trial Practice Committee, 1981-present; Sub-Committee on National CLE Programs
- Michigan State Bar Foundation, Fellow

Thomas C. O'Brien

- State Bar of Michigan, Section on Negligence and Criminal Law; Task Force on Professionalism, 1989-1990; Criminal Jurisprudence Committee, 1993-1994; Criminal Jury Instructions Committee, 1993-1999
- Washtenaw County Bar Association, Trial Practice Section Chairman 1988-1990; Judiciary Committee; Trial Court Case Evaluation Committee, 1983-present; Mediation Committee, Trial Court Chairman, 1991-1994
- Michigan Association for Justice
- American Association for Justice, Washtenaw County Trial Lawyers Association
- National Association of Criminal Defense Lawyers
- Criminal Defense Lawyers of Michigan
- Incorporated Society of Irish-American Lawyers
- American Constitution Society for Law & Policy
- Phi Alpha Delta

HONORS + AWARDS

- Washtenaw County Bar Association, 2012 Professionalism and Civility in the Practice of Law Award
- Best Lawyers in America, 2011 Ann Arbor Criminal Defense: White-Collar Lawyer of the Year; Bet-the-Company Litigation, Commercial Litigation, Personal Injury Litigation 2005-2011; Bet-the-Company Litigation, Commercial Litigation, Criminal Defense: Non-White Collar, Criminal Defense: White-Collar, Personal Injury Litigation-Defendants, Personal Injury Litigation-Plaintiffs 2012
- Michigan Super Lawyers, Criminal Defense 2006-present
- DBusiness Magazine, Top Lawyers, White Collar Criminal Defense 2011-present
- Who's Who in American Law
- Washtenaw Land Trust, Distinguished Service Award, 2003
- Michigan Centennial Farm Association, Outstanding Centennial Farm of the Year, 1996
- Northfield Township Historical Society, Centennial Farm Award, 1996
- Peace Neighborhood Center, Defense Lawyer of the Year, 1994
- State Bar of Michigan, Circle of Excellence Award

CIVIC, CULTURAL + SOCIAL ACTIVITIES

- Ann Arbor Bicentennial Commission, Chairman, 1975-1976
- Washtenaw Land Trust, President 2001-2003; Board Member, 1998-2004
- The Devine Foundation, Board Member, 1993-1996
- Campus Ecumenical Center, Board Member, 1993-1996
- NEW Center, Board Member, 1993-1996
- COPE-O'Brien Center, Board Member, 1987-1992
- Spaulding for Children, Board Member, 1980-1984
- Parent/Infant Center, Board Member, 1971-1973
- State of Michigan, Agriculture Preservation Fund Board; Member, 2004-present
- Michigan Prospect for Renewed Citizenship, Vice President, 1998-2002; Board Member, 1984-present
- Northfield Township Historical Society, Board Member, 1981-present; President, 1984-1988

TEACHING EXPERIENCE

- Federal Bar Association, Eastern District of Michigan Chapter, Trial Advocacy Program 2010 Team Leader
- Institute of Continuing Legal Education, Trial Advocacy Workshop; Team Leader and Faculty Member, 1978-1994
- Advanced Trial Advocacy Skills Workshop, Team Leader and Faculty Member, 1985; Lecturer, 1986-present
- National Institute for Trial Advocacy, Senior Faculty Member, 1980-2011; Midwest Regional Program Section Leader, 1996; Distinguished Faculty Member, 1994
- Michigan Trial Lawyers Association, Lecturer, April 1994
- University of Michigan Law School, Trial Advocacy; Adjunct Faculty, 1985-1997; Guest Lecturer, 1971-present
- Criminal Defense Lawyers of Michigan, Faculty Member, 1983, 1987, 1993, 1994, 2007
- State Farm Insurance In-House Advocacy Program, Faculty Member, 1992
- Travelers Insurance Advocacy Program, Faculty Member, 1990
- Creighton University, Trial Advocacy Skills Workshop, Faculty Member, 1976

PUBLICATIONS

"Daubert, Crawford, the Rules of Evidence and Issues in Presentation of Expert Investigator Evidence," Criminal Defense Attorneys of Michigan (CDAM) Newsletter, June 2007

"The V.A. Murders," Litigation Magazine, November 1984; The Advocate, Idaho State Bar, April 1985

SPEECHES

"Presenting the Defense," Criminal Defense Lawyers of Michigan Seminar, Spring 1983, Spring/Fall 1987, Fall 1993, Spring 1994

"Examining Expert Witnesses," National Institute of Trial Advocacy (video), Spring 2003

"The V.A. Nurses Case: The Effects of Press Coverage on a High-Profile Criminal Trial," V.A. Nurses Symposium, Wayne State Law School, 2001, Wayne Law 2002

"The Defense Perspective," US v Narciso, Federal Bar Association, Rakow Scholarship Awards Luncheon, November 2001

"How to Develop a Winning Theory of the Case," Jackson County Bar Association, 1997

"Federal Grand Jury Practice," Federal Practice Section, Washtenaw County Bar Association, 1995

"Cross Examination of Expert Witness," Institute of Continuing Legal Education, 1993, 1996, 1999, 2003, 2007 and Criminal Defense Lawyers of Michigan, 1994

"What Every Lawyer Should Know About Cross Examining Expert Witnesses," ICLE - 2007 Wayne County Assigned Counsel Training-Juvenile, May 2007

"Advocacy in the 90's," Michigan Trial Lawyers Association, 1992

"How to Develop a Winning Theory of the Case," Michigan Trial Lawyers Association, October 1990

"Reliability of Child Witnesses," Institute of Continuing Legal Education, 1987

"How to Introduce Evidence in Court: Expert Witnesses," Institute of Continuing Legal Education, 1986

Symposium on Hypnosis, National Legal Aid and Defender
Convocation, Albuquerque, N.M., November 1979

NEWS

- Miller Canfield Lawyer Tom O'Brien Receives Award from
Washtenaw County Bar Association
- Miller Canfield Leads Valassis Victory in News America Lawsuit