

LAWDRAGON

Hall of Fame Lawyer Limelight: Todd A. Smith



By Emily Jackoway

A staunch advocate for access to justice, Chicago trial lawyer [Todd A. Smith](#) has focused his 40-year legal career on making the courts accessible to all. Whether he's fighting for a severely injured client in a jury trial or supporting a cause like government cutbacks in legal services for the poor, he strives to help everyday people obtain the justice they deserve.

A former Chicago assistant public defender and a founding partner of Power Rogers & Smith, he and partner Brian LaCien opened [Smith LaCien](#) on May 1, 2020.

Smith has won some of Illinois's largest multi-million-dollar jury awards and settlements in catastrophic personal injury, product liability, wrongful death and medical malpractice cases. They include cases like a horrific accident on a highway claiming the lives of four people, a negligent delivery resulting in serious harm to a newborn, and the crash of the 737 Max passenger aircraft in Ethiopia. He and his legal team always find a way to tell their client's story, winning more than \$2.5B in verdicts and settlements for victims and their families.

While his reputation in medical malpractice, product liability and aviation is well known, he also takes on some high-value litigation with national implications. Cases range from financial fraud and birth-related malpractice matters to litigation over faulty Takata airbags.

Smith has also held scores of leadership positions at some of the largest and most prestigious lawyer associations, including the American Association for Justice and the Illinois State Bar Association.

What makes Smith a truly great lawyer is not just his victories in the courtroom but the quality of his character. Friends and colleagues describe him as sincere, genuine, modest and a true leader with intellect, compassion and emotion. In addition to receiving dozens of significant awards for his accomplishments, Smith has also received awards of a different kind, with memberships in two invitation-only organizations – the Inner Circle of Advocates, a group of the top 100 trial lawyers in the U.S., and the International Academy of Trial Lawyers (IATL), an organization of the top 500 top trial lawyers in the world. He was recently awarded a seat on the 2022 IATL Board of Directors.

It is a pleasure to announce that Smith was inducted into this year's Lawdragon Hall of Fame.

Lawdragon: Two years into founding your new firm, what has most surprised you about the firm's development?

Todd Smith: I'm pleasantly surprised with how much we've grown and developed already. For a small operation, we're growing in a very solid way. We started with just three lawyers and now we're up to six and looking to hire a couple more very soon. I feel very fortunate to have this group. We are going to keep growing but not too much. I always preferred to be part of a smaller operation.

LD: What qualities do you look for when bringing new talent to the firm?

TS: I look for someone who is passionate about what we do and is driven by more than just the financial rewards. I started out as an assistant public defender doing criminal work. The people I represented virtually had no money. Helping the most vulnerable in our society access justice gave me a strong sense of purpose for practicing law.

It transfers to the plaintiffs' side of civil cases, the personal injury and wrongful death work we do now because most often, it's people who are vulnerable and not well off who are more likely to be exposed. Those who are doing the hard physical labor in construction, for example, are the ones who get injured. Those who don't live and work in areas with the best medical care can be at risk. People on the lower end of the economic scale are more likely to need our help. So, I always look for that passion to help others in the lawyers we bring into the firm. And that's the team we have now. Everyone is very involved with the clients and cares deeply about the people we represent.

LD: I know you did a lot of aviation cases when you first started doing civil work. Can you reflect on how those early cases have influenced the way your career has unfolded?

TS: From the very beginning of my civil work, I had access to aviation matters. My mentor, Phil Corboy, was essentially the king of torts in Chicago. The firm became involved in one of the worst aviation disasters at the time. It was appointed lead counsel for American Airlines flight 191 crash in 1979 at O'Hare International Airport where 271 people on board and two people on the ground were killed. One of the three engines which powered the aircraft just dropped off as the plane was ascending. That was the first case I worked on in private practice, and it was a big, fascinating case. I still have a model of the DC 10 in my office.

In addition to commercial aviation cases like that one, I had what you would call general aviation cases – cases against aircraft manufacturers, such as product liability cases against Beech Aircraft and Cessna and Piper, all on product defects. I also worked on air traffic control cases, where we sued the federal government over failures in air traffic control.

I decided to get my pilot's license in the early '80s because I wanted to know precisely what I was dealing with. I wanted the depth of experience to help me communicate with clients and juries about the cases.

LD: Do you continue to do aviation work?

TS: Absolutely. I'm currently representing a family and others from Kenya that lost loved ones in the Ethiopia Airlines Flight 302. One passenger on that flight who died was a nun, traveling from her mission in the Congo, going back to see her family in Kenya for the first time in several years. She had been away training to become a sister in an order of French nuns in Quebec and was then assigned to the Congo and died in that crash. I'm working with Kreindler & Kreindler's NY office on those cases.

LD: You've since expanded into many different practices. Was it difficult to become proficient in so many areas?

TS: It takes time and effort to develop proficiency in these complex areas, but I've always felt that the law is a continuing learning experience and I love learning. The law is a jealous mistress meaning it keeps you busy all the time. It can take you away from family and home, but you need to devote that time and effort to be the very best you can be.

LD: Tell us about the Sterigenics case that's going to trial this fall.

TS: It's an environmental case, and there are several hundred cases filed. This is the second trial. There are many different issues, but the big one is that a lot of people were exposed to ethylene oxide emitted into the air from Sterigenics's plants across the country, resulting in cancers. It is an important case because it is bringing a lot of these issues to light.

The EPA and the Illinois EPA, early in 2018, came out with studies that made certain declarations about these emissions. People were living nearby and raising children who attended nearby schools and visited local parks. All along the plants have been spewing these toxic carcinogens. It's just been devastating to these folks.

LD: That's awful. I'm sure you'll be able to find justice for these victims. You recently had a settlement in another class action case relating to injuries caused by faulty Takata airbags.

TS: We started on Takata back in 2014 and it has become national multi-district litigation. Judge Federico Moreno in Southern District of Florida appointed me, along with David Boies of Boies Schiller Flexner, as co-lead economic loss counsel. The chair lead was a really fine lawyer, Peter Prieto. We worked closely with Peter in leadership, and we settled the first seven cases with manufacturers, including Honda, Toyota and eventually Ford. I had a lot of involvement in the Ford case and took many depositions from Takata employees, which was a development that supported all of the defendants.

Recently, we've been working with Mercedes, General Motors, Chrysler and VW. I had responsibility for all of it, and I took the lead on VW and that settled this past April. I was really pleased about that, given they were the one out of the remaining four to step up and resolve their case. The case was about inflators that rupture, or potentially rupture, and they had ammonium nitrate in them which was the problem. They used a propellant that was able to absorb moisture, expand its surface, become more volatile and explosive, and have the potential to do serious harm and even cause death. VW didn't have nearly as many inflators as the others, but they stepped up and resolved the issue.

LD: The case settled for \$42M.

TS: That's right. These cases will always be memorable for me, in part because it was the largest automotive recall in history and remains so as far as I know. To have been a part of that case and successfully obtain a just result is very gratifying.

LD: I also wanted to ask you about your recent wrongful death case with the endoscopy.

TS: The saddest thing about it is that it involved a young woman – 30 years old who was a paralegal at a law firm. She had an elective procedure, and our evidence was very strong that the procedure should never have been done. She came from a lovely family and the parents and siblings were just devastated. They hung right in there with her to the end.

It was an outpatient procedure, not even under general anesthesia. It should have been done with imaging but instead it was an endoscope that went down into the bowel and made a hole there, resulting in her needing surgery. They decided to do what is called in the medical literature as "wait and watch." The surgery was delayed for almost 30 hours. So, the legal battle was going to be over the extent to which she was made worse during those 30 hours without intervention.

Their claim was that she was stable, and they didn't have to go back in, but she wasn't stable. There were indications of instability, and they weren't identified. That was our position, and about 24 hours after she had the initial injury in the outpatient procedure, she began dumping bile out of a chest tube. Bile has no business being up in your chest. She suffered from collapsed lungs due to the air that got inside of her abdomen, which had pushed against the lungs and deflated them. Our contention was they waited, but they didn't watch.

A truly devastating situation, to lose a young woman who was completely healthy 12 days prior. It was senseless, needless. It was important to get full and complete justice for that family, as much as you can when they have lost a daughter. We settled for \$7.3M.

LD: You have had such an impactful career in so many areas. What's different about the profession now from when you started?

TS: A lot of things have changed, some for the better, others not so much. A major change happened when the U.S. Supreme Court decided that lawyers could advertise. Under the First Amendment, their decision is protected. Law firms must abide by the federal government's truth-in-advertising laws and by ethical guidelines determined by each state. Unfortunately, advertising has not always had such a great impact on the profession. Some advertising can be respectful, but these splashy ads on billboards, buses, television and online – they aren't professional and don't send a great message about the law.

LD: Earlier this year, you were elected to a three-year term on the board of The International Academy of Trial Lawyers. Why is professional trade association involvement so important to you and to the legal profession, in general?

TS: Legal trade organizations help maintain respectability for the profession, and many of these organizations do very positive things for society. Corporate interests and well-financed interests, who seek to protect themselves and their monies, try to place caps on damages that could keep regular people from getting the justice they deserve. It's always been a huge battle, but it's so important to keep those doors open for all.

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