



## AIKEN & SCOPTUR, S.C.



TIMOTHY J.  
AIKEN

PAUL J.  
SCOPTUR

**W**hen injured people hire Aiken & Sceptur to help them, they are in good hands. Super Lawyers Tim Aiken and Paul Sceptur have spent the past 30 years as trial lawyers, trying their clients' cases and gaining justice for them.

**PRACTICE AREAS** Tim and Paul have spent their entire careers helping people in wrongful death claims, as well as helping those injured by medical malpractice; defective products; workplace injuries; automobile, truck, and motorcycle collisions; and nursing home injuries and abuse; among others.

**LAWYERS' LAWYERS** Aiken & Sceptur is the firm that fellow lawyers, judges, and doctors go to when they have been hurt.

### WE TRY CASES.

A referral firm that does not advertise, Aiken & Sceptur is comprised of four lawyers, each with years of experience handling personal injury cases in Wisconsin, the Midwest, and other countries such as Canada, Spain, and Germany. Aiken & Sceptur has an extensive network of medical and other experts available to aid their

clients. The firm also excels at using technology in case presentation.

**TOUGH LITIGATORS** "We've developed a reputation in Wisconsin and across the country for being prepared and technically savvy, as well as for being exceptional litigators who will fight for our clients to get the best results," says Sceptur.

**WINNING RESULTS** Tim and Paul have earned results in the form of many multi-million dollar settlements and verdicts. Some of their verdicts include several \$6 million medical malpractice verdicts, and at the time, the highest punitive damage verdict in a personal injury case (\$10 million), the highest damage verdict in a product liability trial (\$12.3 million), and the highest damage verdict for a single plaintiff in trial (\$12 million).

**MAKING A DIFFERENCE** In addition to his trial experience, Tim is recognized as one of the top appellate lawyers in Wisconsin. He has successfully argued many cases in the Supreme Court; those cases have protected the rights of injured citizens of Wisconsin.

**EDUCATORS** Besides practicing law, Tim and Paul also teach other attorneys and law students how to practice law. They have spent countless hours teaching

trial skills to lawyers all over the country. In addition, Paul teaches at both the Marquette and UW law schools.

**GO-TO FIRM** If you hire Aiken & Sceptur, you know that you will get your money's worth: lawyers who are trial lawyers, not settlement lawyers; lawyers who will go all the way to protect your rights.

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**Tim Aiken & Paul Sceptur  
were named  
Wisconsin Super Lawyers  
for 2005 and 2006  
by Milwaukee Magazine  
in a vote of their peers.**

**They were  
recognized for their advocacy  
in representing people  
injured all over Wisconsin.  
This is in addition to  
their inclusion in the  
"Best Lawyers in America"  
for many years running.**

**Favorite Links:**  
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## RECENT APPELLATE COURT DECISIONS

Tim Aiken and Jim Gallanis recently handled 2 cases in our Appellate Courts that significantly impact injured people in Wisconsin.

### **Leitinger v. Van Buren Management Inc.**

In this case, the Middle Appellate Court upheld the collateral source rule in Wisconsin. At the trial, held in Milwaukee, the defendant successfully convinced the trial judge that the “reasonable” value of the medical expenses incurred by the plaintiff was the amount actually paid by the health insurer, not the actual amount of the bills. In effect, the judge gave the benefit of the contract between the insurer and the health care providers to the defendant, not the injured plaintiff. In overturning the trial judge, the Appellate Court indicated that the collateral source rule is alive and well in Wisconsin, and the reasonable value of the medical expenses is the amount of the bills, not the amount actually paid.

### **Bartholomew v. The Fund**

In this case, a jury awarded \$2.5 million to the Estate of Helen Bartholomew, who died as a result of medical malpractice. Included in the verdict was compensation for the pain and suffering of Helen prior to her death, as well as compensation for the loss of society and companionship resulting from her death. Under then existing law, the Kenosha trial court judge reduced the pain and suffering award to zero, holding that only one cap applied, that being the wrongful death cap, under the Maurin case. On appeal, the Wisconsin Supreme Court held that Robert was entitled to recover for both the wrongful death of his wife and her pain and suffering in contemplation of death, i.e. her survivorship claim. The Court reinstated the jury award for Helen’s pain and suffering in contemplation of death. The Court specifically overruled the Maurin case, which held that in a situation where there was pain and suffering prior to death, and a death related to medical malpractice, only the wrongful death claim could be pursued and that was the cap that was to be applied. Thanks to Kenosha lawyer Paul Gagliardi, who was co-counsel both at trial and on the appeal.

## RECENT VERDICTS

### **Baier v. Safeco Insurance**

Claude Baier was injured in a low speed car crash. His car was struck by a driver who made a rolling stop at a stop sign, hitting Claude’s car at a speed of under 10 MPH. Claude struck his head on the door frame and sustained a mild brain injury. The defendant driver, a 17 year old, had policy limits of \$100,000. The offer at mediation was \$7,800. One week before trial, the policy limits were tendered and refused by Claude. Paul Scoptur tried the case and a Milwaukee County jury returned a verdict of \$671,021.05. Because of a pre-trial offer of settlement, the total judgement was \$732,021.32. Safeco Insurance paid the entire judgement within 2 weeks of the verdict, in order to avoid a bad faith claim.

### **Bien V. Regent Insurance**

Jennifer Bien was injured in a T-bone auto collision in Menomonie, Wisconsin. The primary issue was whether Jenny’s bilateral shoulder surgeries were caused by the collision. She did not have any clear symptoms for more than 13 months after the collision and the diagnosis and surgeries occurred more than 24 months after the collision. The jury found that the shoulder surgeries were necessitated by the collision and returned a verdict for Jenny. Many thanks to co-counsel Mike Wagner, who tried the case with Tim Aiken.

### **Amrhein V. American Family**

Christine Amrhein, a waitress, fell on ice at the apartment complex where she lived. The lighting was poor, the roof had no gutters and the downspouts and drainage caused water to pool and freeze in front of her parking stall. As a result of the fall, she broke her ankle and ultimately had a fusion. Tim Aiken and Paul Scoptur tried this case in Milwaukee County and obtained a \$320,000 verdict on her behalf.

## RECENT SETTLEMENTS

### **Gile v. TLC Homes**

Jeremy Gile, age 25, was brain injured in a car accident when he was young. As a result, he functions at about the 4th grade level. He was placed in an adult group home in 2001 run by TLC Homes in Sheboygan. While a resident there, he was the victim of repeated sexual assaults by an employee of TLC. TLC never adequately trained the employee, nor did they check his references and reason for his military discharge. Had they checked, they would have found out that he was less than honorably discharged from the Navy, and he would not have been hired in accordance with company policy. Paul Scoptur negotiated an \$800,000 settlement for Jeremy, ensuring the safety of his future.

### **Peters v. St John's Home**

Helen Uihlein Peters was a resident at St. John's Home in Milwaukee. She was obese and had osteoporosis. Despite orders that she should be transferred with at least 2 people doing the transfer, she was transferred from her wheelchair to her bed by only one aide. She fell, resulting in multiple injuries which ultimately caused her death. Paul Scoptur secured a settlement for the family totaling \$525,000 from both the nursing home and the private care agency that employed the aide.

### **Temple v. Preisler**

Steven Temple was a patient at the West Bend Clinic from approximately 1995 to 1999. A July 22, 1998 neck exam of Mr. Temple showed no positive findings, including no nodes. On February 12, 1999, Steven saw Gary Preisler, D.O., for fullness in his thyroid gland. Dr. Preisler ordered an ultrasound, which showed a 3.3 cm nodule and a questionable second smaller nodule. Dr. Preisler ordered a thyroid scan on March 8, 1999. It showed a nodule on the right thyroid lobe with no cold nodules; a right inferior pole nodule with a second hot nodule extending from the inferior pole. On March 11, 1999, Dr. Preisler consulted with Steven and told him not to worry and he did not need to do anything further regarding the thyroid growth, unless it got larger. Cancer was diagnosed two years later, after a thyroidectomy and central neck dissection to remove a 6 cm mass. Steven underwent a total laryngectomy, partial pharyngectomy, right jugular chain selective neck dissection, and primary tracheoesophageal puncture with prosthesis. Unfortunately, on August 29, 2002, metastatic disease was discovered in Steven's chest. His prognosis is poor at this time. This case was set for trial in Washington County in June of this year, but was settled shortly before trial for \$2,555,000.

### **Skrzypchak v. American Family**

Wayne and Elaine Skrzypchak were going to breakfast on their motor scooter in Kenosha. The defendant driver failed to see the scooter, ran a stop sign and struck the scooter, injuring both Wayne and Elaine. Wayne's leg was ultimately amputated above the knee. Paul Scoptur and Tim Aiken secured a settlement for the Skrzypchaks in the amount of \$1,200,000, all of the available insurance limits, prior to trial. This will allow Wayne and Elaine to fulfill their dreams of buying a motor home, traveling and spending their time with their 4 boys and their grandchildren.

## SIGNIFICANT APPELLATE COURT DECISIONS

Aiken & Scoptur have been lead trial and appellate counsel on some of the most significant tort litigation in Wisconsin over the last 20 years. Some of these are listed below.

**Young v. Professionals Ins. Co.**, 154 Wis. 2d 742, 454 N.W.2d 24 (1990) This case overturned a long-standing medical malpractice causation instruction which limited the right of recovery of an innocent victim of malpractice.

**Estate of Campbell v. Chaney**, 169 Wis. 2d 399, 485 N.W.2d 421 (Ct.App.1992) The court of appeals held that no "suit within a suit" is necessary in certain types of legal malpractice cases.

**Meyer v. Classified Ins. Corp.**, 179 Wis. 2d 386, 507 N.W.2d 149 (Ct.App.1993). This case involved the issue of when and under what circumstances arbitration may be demanded and upheld the trial court's right to deny a request for arbitration under certain circumstances.

**Plautz v. Time Ins. Co.**, 189 Wis. 2d 136, 525 N.W.2d 342 (Ct.App.1994). The court of appeals established the rights of beneficiaries under life insurance policies to seek compensation for bad faith.

**Bowen v. Lumbermens Mut. Cas. Co.**, 183 Wis. 2d 627, 517 N.W.2d 432 (1994). In this seminal case out of Manitowoc, the Supreme Court expanded the rights of bystanders to recover for emotional distress caused by a negligent person.

**Martin by Scoptur v. Richards**, 192 Wis. 2d 156, 531 N.W.2d 70 (1995). This much quoted case definitively established that a patient has a right to know the risks, benefits and most importantly, the alternatives available to him/her when receiving medical care. This case emphasized that the patient has a right to participate in his/her care and that the doctor has a duty to involve the patient in that decision. It was also significant as it established that a \$1,000,000.00 limit on non-economic damages was unconstitutional.

**Condon v. Heritage Mut. Ins. Co.**, 262 Wis.2d 504, 665 N.W.2d 377 (Table), 2003 WI 91, Wis., May 30, 2003. In this court of appeals case, they held that the expert testimony of an investigating officer on the relationship between impact speed and severity of injury in auto-pedestrian collisions was admissible.

**Finnegan ex rel. Skoglund v. Wisconsin Patients Compensation Fund**, 263 Wis.2d 574, 666 N.W.2d 797, 2003 WI 98, Wis., Jul 08, 2003. A divided Supreme Court in this case refused to extend Bowen to permit bystander claims for emotional distress in the context of medical malpractice actions. This set the groundwork for the Court's later overruling of the decision.

**Johnson v. Blackburn**, 227 Wis.2d 249, 595 N.W.2d 676, Wis., Jun 30, 1999. This case arose from a tragic fire that killed one child and severely injured another. The legal issue involved was whether the children, who, unknown to the landlord, were temporary guests of the tenant of the apartment, were trespassers under Wisconsin law. The Supreme Court held that the children were not trespassers, and therefore were owed a duty of reasonable care by the landlord.

**Pearson, et al. v. Alliant Energy Corporation**, 700 N.W.2d 333, 2005 WL 1653105 (Iowa, 2005). In Pearson, the Iowa Supreme Court upheld a jury verdict in favor of the family of a retired couple killed in a gas explosion at their rural Iowa home. The Iowa Supreme Court held that a natural-gas utility had the duty to exercise reasonable care to inform its customers of dangers inherent in using its gas with certain connector that used brass tubing to connect gas line to appliances. The court affirmed the jury's findings that the utility knew (1) that sulfur compounds contained in its natural gas had a corrosive effect on phosphorus brazing alloy used in those connectors, (2) that the utility knew that those connectors were widely used by its customers, and (3) the utility knew that the deterioration of brazed joint could lead to catastrophic failure.